

2016 Regular Session

HOUSE BILL NO. 858

BY REPRESENTATIVE MONToucET

AN ACT

To amend and reenact R.S. 33:2476(C) and (H) and 2536(C) and (H), relative to the municipal fire and police civil service board; to provide relative to the members of the board; to provide relative to the appointment of such members; to provide a judicial remedy for failure to appoint such members; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:2476(C) and (H) and 2536(C) and (H) are hereby amended and reenacted to read as follows:

§2476. Municipal fire and police civil service boards

\* \* \*

C.(1)(a) The first five members of a board shall be appointed by the governing body of the municipality during the ninety-day period immediately following the date that this Part takes effect in a municipality under R.S. 33:2471.

(b) If the governing body fails to appoint the members as required in Subparagraph (a) of this Paragraph and the state examiner has given written notification to the governing body of its failure to appoint such members, then the governing board shall make the appointments within ninety days following such notification.

1                   (c) If the governing body fails to make appointments as required in  
2                   Subparagraphs (a) and (b) of this Paragraph, then the state examiner shall seek a writ  
3                   of mandamus which shall lie to the court of original and unlimited jurisdiction in the  
4                   parish in which the office of state examiner is domiciled.

5                   (2) The members of the board shall be appointed by the governing body as  
6                   follows:

7                   ~~(1)~~(a) One shall be appointed by the governing body upon its own  
8                   nomination.

9                   ~~(2)~~(a)(b)(i) Two members shall be appointed from a list of four nominees  
10                  that shall be furnished, within sixty days after the governing authority makes a  
11                  request by certified letter for such list, by the executive head of a legally chartered  
12                  and established four-year institution of higher education located within the  
13                  municipality; or, if there is no such institution in the municipality, by the executive  
14                  head of such an institution which is within the state and which is the most  
15                  geographically proximate to the municipality. However, if only two such four-year  
16                  institutions of higher education are located within the municipality, the head of each  
17                  of the two institutions shall furnish a list of two nominees and one member shall be  
18                  appointed from each such list.

19               ~~(b)~~(ii) If a list of nominations is not submitted within sixty days after  
20               submission of request for such list, such failure shall be considered a failure to  
21               perform a ministerial duty required by law of a public official or corporate officer.  
22               To this end, the district attorney for the parish in which the institution is located shall  
23               provoke the issuance of a writ of mandamus to compel the official or officer to act  
24               as provided by law.

25               (3)(a) Two members shall be appointed who shall be first nominated and  
26               elected by and from the regular employees of the fire and police departments as  
27               follows:

28               (i) One member shall be elected and appointed from the fire department, ~~and~~.

29               (ii) ~~one~~ One member shall be elected and appointed from the police  
30               department.

(b)(i) The employee-nominee from each department shall be elected by secret ballot of the regular employees of his respective department at an election to be called and held for that purpose by the chief of the department.

(ii) If, after the close of nominations for the employee member for the respective department, the name of only one regular employee has been placed in nomination, that nominee shall be declared elected.

(iii) The ~~If more than one name is placed in nomination, the chief of each department~~ shall call ~~such~~ an election within forty-five days after this Part takes effect in the municipality by posting, for a ~~fifteen-day~~ fifteen-day continuous period immediately preceding the election, a notice thereof on the bulletin board of each station house of his department; ~~and,~~ The chief shall officially notify the governing body of the municipality within the ~~ten-day~~ ten-day period immediately following the election, the name of the employee-nominee so elected by the regular employees of his department. The chief of the department shall vote in the election only in the case of a tied vote.

(4) Notwithstanding the provisions of Paragraph (3) of this Subsection, if R.S. 33:2495.2 becomes applicable, only one member shall be elected from the city of New Iberia municipal fire and police civil service system and one member shall be appointed by the mayor of the city of New Iberia upon his own nomination, provided that such exception is approved by resolution of the city of New Iberia governing authority.

\* \* \*

H. Any member of a board shall be liable to removal from office by judgment of ~~the district court of his domicile~~ the court of original and unlimited jurisdiction in civil suits of the parish wherein the board is domiciled for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, oppression in office, gross misconduct, or habitual drunkenness. The district attorney of the district wherein the board member resides ~~may institute such suit, and shall do so~~ is domiciled shall institute such suit upon the written request, specifying the charges, of twenty-five citizens and taxpayers of the municipality ~~of which the board~~

1 ~~member is a resident.~~ The district attorney shall associate in the diligent prosecution  
2 of such suit any attorney selected and employed by the citizens and taxpayers.

3 \* \* \*

4 §2536. Fire and police civil service boards

5 \* \* \*

6 C.(1)(a) The first five members of a board shall be appointed by the  
7 governing body of the municipality, parish, or fire protection district, as the case may  
8 be, during the ninety-day period immediately following the date that this Part takes  
9 effect in a municipality, parish, or fire protection district under R.S. 33:2531.

10 (b) If the governing body fails to appoint the members as required in  
11 Subparagraph (a) of this Paragraph and the state examiner has given written  
12 notification to the governing body of its failure to appoint such members, then the  
13 governing board shall make the appointments within ninety days following such  
14 notification.

15 (c) If the governing body fails to make appointments as required in  
16 Subparagraphs (a) and (b) of this Paragraph, then the state examiner shall seek a writ  
17 of mandamus which shall lie to the court of original and unlimited jurisdiction in the  
18 parish in which the office of state examiner is domiciled.

19 (2) The members of the board shall be appointed by the governing body as  
20 follows:

21 ~~(1)~~(a) One shall be appointed by the governing body upon its own  
22 nomination.

23 ~~(2)~~(a)(b)(i) Two members shall be appointed from a list of four nominees  
24 which shall be furnished, within sixty days after the governing authority makes a  
25 request by certified letter for such list, by the executive head of a regularly chartered  
26 and established four-year institution of higher education located within the area  
27 served; or, if there is no such institution in the area served, by the executive head of  
28 such an institution which is within the state and which is the most geographically  
29 proximate to the area served.

~~(b)~~(ii) If a list of nominations is not submitted within sixty days after submission of request for such list, such failure shall be considered a failure to perform a ministerial duty required by law of a public official or corporate officer. To this end, the district attorney for the parish in which the institution is located shall provoke the issuance of a writ of mandamus to compel the official or officer to act as provided by law.

(3)(a) Two members shall be appointed who shall be first nominated and elected by and from the regular employees of the fire and police department as follows:

(i) One member shall be elected and appointed from the fire department, and

(ii) ~~one~~ One member shall be elected and appointed from the police department.

(b)(i) The employee-nominee from each department shall be elected by secret ballot of the regular employees of his respective department at an election to be called and held for that purpose by the chief of the department.

(ii) If, after the close of nominations for the employee member for the respective department, the name of only one regular employee has been placed in nomination, that nominee shall be declared elected.

(iii) ~~The~~ If more than one name is placed in nomination, the chief of each department shall call ~~such~~ an election within forty-five days after this Section takes effect in the area affected by posting, for a ~~fifteen-day~~ fifteen-day continuous period immediately preceding the election, a notice thereof on the bulletin board of each station house of his department; ~~and,~~ The chief shall officially notify the governing body of the area affected within the ~~ten-day~~ ten-day period immediately following the election, the name of the employee-nominee so elected by the regular employees of his department. The chief of the department shall vote in the election only in the case of a tie vote.

\* \* \*

H. Any member of a board shall be liable to removal from office by judgment of the district court of his domicile the court of original and unlimited

jurisdiction in civil suits of the parish wherein the board is domiciled for high crimes and misdemeanors in office, incompetency, corruption, favoritism, extortion, oppression in office, gross misconduct, or habitual drunkenness. The district attorney of the district wherein the board ~~member resides may institute such suit, and shall do so~~ is domiciled shall institute such suit upon the written request, specifying the charges, of twenty-five citizens and taxpayers of the municipality, parish or fire protection district, as the case may be, ~~of which the board member is a resident~~. The district attorney shall associate in the diligent prosecution of such suit any attorney selected and employed by the citizens and taxpayers.

\* \* \*

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_