Regular Session, 2011

HOUSE BILL NO. 374

BY REPRESENTATIVE RICHARDSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

LOCAL OFFL/POLICE CHIEFS: Provides relative to the powers granted to elected police chiefs in municipalities governed by the Lawrason Act

AN ACT

To enact R.S. 33:423(C), relative to municipal police chiefs; to provide relative to the powers granted to an elected police chief in any municipality governed by the Lawrason Act; to authorize the police chief to effect disciplinary action, dismiss police personnel, and to make provisional appointments to fill vacancies in the police department; to provide limitations and exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 33:423(C) is hereby enacted to read as follows:

§423. Duties of marshal

* * *

C.(1)(a) Notwithstanding the provisions of Subsection A of this Section or any other law to the contrary, the elected chief of police of any municipality governed by the provisions of this Part is authorized to immediately effect disciplinary action on police personnel and to dismiss any such personnel subject to the approval of the governing authority of the municipality. Any such disciplinary action or dismissal shall be deliberated by the governing authority at the first special or regular meeting of the governing authority after any such determination has been made by the chief of police.

(b) Notwithstanding any other provision of law to the contrary, the elected chief of police in any municipality with a population of not less than one thousand

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persons and not more than one thousand five persons as of the latest federal decennial census is authorized to effect disciplinary action on police personnel without the approval of the governing authority of the municipality.

(2)(a) The chief of police is additionally authorized to make a provisional appointment to immediately fill any vacancy in the police department occurring by reason of death, resignation, termination, or otherwise subject to the approval of the mayor of the municipality. Any such action taken by the chief of police shall be deliberated at the first special or regular meeting of the governing authority of the municipality after any such provisional appointment has been approved by the mayor. Any such provisional appointment shall remain in effect unless rejected by the governing authority of the municipality.

(b) Notwithstanding any other provision of law to the contrary, the elected chief of police in any municipality with a population of not less than one thousand persons and not more than one thousand five persons as of the latest federal decennial census is authorized to appoint police personnel, including the authority to make provisional appointments, subject to the budgetary limitations of the chief of police pertaining to the number of allotted positions for the police department. All appointments shall be subject to the concurrence of the mayor of the municipality.

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.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Richardson HB No. 374

Abstract: Grants elected police chiefs in municipalities governed by the Lawrason Act the authority to effect disciplinary action, dismiss police personnel, and to make

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provisional appointments to fill vacancies in the police department. Provides limitations and exceptions.

Present law provides that in a municipality governed by the Lawrason Act, the marshal shall be chief of police and shall be an ex officio constable. Provides that the police chief has the general responsibility for law enforcement in the municipality and is charged with the enforcement of all ordinances within the municipality and all applicable state laws. Requires that the police chief perform all other duties required of him by ordinance.

Proposed law retains present law.

Present law requires the elected police chief in municipalities governed by the provisions of the Lawrason Act to make recommendations to the mayor and board of aldermen for the appointment of police personnel, promotion of officers, to effect disciplinary action, and for dismissal of police personnel. Requires that nominations or recommendations be made regardless of race, color, disability, or creed.

Proposed law instead authorizes elected police chiefs to immediately effect disciplinary action and to dismiss police personnel subject to the approval of the municipal governing authority. Requires the municipal governing authority to deliberate any action or dismissal at the first special or regular meeting of the governing authority after a determination is made by the police chief. Proposed law otherwise retains present law requirements that the police chief make recommendations to the mayor and board of aldermen for the appointment of police personnel and the promotion of officers. Proposed law additionally retains present law requirement relative to nominations or recommendations being made regardless of race, color, disability, or creed.

Proposed law additionally authorizes the elected police chief to make provisional appointments to immediately fill vacancies in the police department subject to the approval of the mayor of the municipality. Requires the municipal governing authority to deliberate any action taken by the police chief at the first special or regular meeting of the governing authority after any provisional appointment is approved by the mayor. Provides that a provisional appointment shall remain in effect unless rejected by the governing authority of the municipality.

Proposed law provides an exception for the elected police chief in any municipality with a population of not less than 1,000 persons and not more than 1,005 persons. Authorizes the elected police chief in any such municipality to effect disciplinary action on police personnel without the approval of the governing authority of the municipality. Additionally authorizes the elected police chief to appoint police personnel, including the authority to make provisional appointments, subject to the budgetary limitations of the police chief pertaining to the number of allotted positions for the police department. Requires that all appointments be subject to the concurrence of the mayor.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 33:423(C))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Municipal, Parochial and Cultural Affairs to the original bill.

1. Adds exceptions regarding disciplinary action and appointments by an elected police chief in a municipality with a population of not less than 1,000 and not more than 1,005.

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House Floor Amendments to the engrossed bill.

1. Removes provision that authorizes the elected police chief in any municipality with a population of not less than 1,000 and not more than 1,005 to dismiss police personnel without the approval of the municipal governing authority.

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