

Regular Session, 2012

HOUSE BILL NO. 1034

BY REPRESENTATIVE FOIL

ETHICS: Excludes persons whose public service is limited to certain professional services from the provisions of the Code of Governmental Ethics

1 AN ACT

2 To amend and reenact R.S. 42:1102(18)(b), relative to the application of the Code of
3 Governmental Ethics to certain persons; to provide an exception to the definition of
4 "public employee" for persons who perform specified, limited contractual services;
5 and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 42:1102(18)(b) is hereby amended and reenacted to read as follows:

8 §1102. Definitions

9 Unless the context clearly indicates otherwise, the following words and
10 terms, when used in this Chapter, shall have the following meanings:

11 * * *

12 (18)

13 * * *

14 (b) However, "public employee" ~~does shall~~ not mean ~~anyone~~ a person whose
15 public service is limited to ~~periodic~~ any of the following:

16 (i) A contract for design services performed by an architect, engineer, or
17 landscape architect.

18 (ii) A contract to provide professional services as a certified public
19 accountant.

20 (iii) Periodic duty in the National Guard pursuant to 32 U.S.C.A. 502.

21 * * *

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)]

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HB No. 1034

Abstract: Provides for purposes of the ethics code that "public employee" does not include anyone whose public service is limited to a contract for design services performed by an architect, engineer, or landscape architect or a contract to provide professional services as a certified public accountant.

Present law (Code of Governmental Ethics) provides for ethical standards for elected officials, public employees, and certain other persons, including prohibited conflicts of interest involving payments from nonpublic sources, prohibited participation in transactions, prohibited contractual arrangements, prohibited gifts, abuse of office, and nepotism. Provides definitions and exceptions.

Present law provides that for purposes of the Code of Governmental Ethics, the term "public employee" means anyone, whether compensated or not, who is: (a) an administrative officer or official of a governmental entity who is not filling an elective office; (b) appointed by any elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the governmental entity or an agency thereof, either as a member of an agency, or as an employee thereof; (c) engaged in the performance of a governmental function; or (d) under the supervision or authority of an elected official or another employee of the governmental entity. Present law specifically provides that "public employee" does not mean anyone whose public service is limited to periodic duty in the National Guard pursuant to certain provisions of federal law (32 U.S.C.A. 502) relative to required training, drills, field exercises, and specified other duties. Present law specifies that a public employee shall be in such status on days on which he performs no services as well as days on which he performs services and that the termination of any particular term of employment of a public employee shall take effect on the day the termination is clearly evidenced.

Proposed law excludes from the definition of "public employee" and therefore from the applicable provisions of the ethics code a person whose public service is limited to: (a) a contract for design services performed by an architect, engineer, or landscape architect or (b) a contract to provide professional services as a certified public accountant.

(Amends R.S. 42:1102(18)(b))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on House and Governmental Affairs to the original bill.

1. Limits proposed law exclusion from the definition of "public employee" relative to architects, engineers, and landscape architects by providing that the exclusion applies to persons whose public service is limited to a contract for design services performed by such a person instead of a contract for any services performed by such a person.
2. Adds to proposed law exclusion from the definition of "public employee" a person whose public service is limited to a contract to provide professional services as a certified public accountant.