HLS 14RS-729 ENGROSSED

Regular Session, 2014

HOUSE BILL NO. 246

1

BY REPRESENTATIVE HARRISON

ELDERLY: Provides relative to the Department of Elderly Affairs, including provisions for officers and employees, rulemaking, and funding

AN ACT

2 To amend and reenact R.S. 36:5, 153, 154(A)(3), 155, and 156(A) and R.S. 46:931, 932(8), 3 933(G), and 934(A) and (B) and to enact R.S. 36:151(D), relative to the Department 4 of Elderly Affairs; to provide relative to officers and employees, rulemaking, and 5 funding for the department; to provide that all officers and employees of the 6 department shall be in the classified state service; to provide for rulemaking 7 authority for the department; to provide for appropriation and allocation to the 8 department of funds appropriated or allocated for department functions; to provide 9 for implementation; to provide for effectiveness; and to provide for related matters. 10 Be it enacted by the Legislature of Louisiana: 11 Section 1. R.S. 36:5, 153, 154(A)(3), 155, and 156(A) are hereby amended and 12 reenacted and R.S. 36:151(D) is hereby enacted to read as follows: 13 §5. Departmental officers; unclassified service 14 A. The secretary, deputy secretary, undersecretary, and assistant secretaries 15 of departments of the executive branch of state government shall be in the 16 unclassified service of the state. 17 B. Notwithstanding the provisions of Subsection A of this Section or of any 18 other law to the contrary, the secretary, deputy secretary, undersecretary, and any 19 assistant secretary and all officers and employees of the Department of Elderly 20 Affairs shall be in the classified service of the state. 21

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1	§151. Department of Elderly Affairs; creation; domicile; composition; purposes and
2	functions
3	* * *
4	D. All officers and employees of the Department of Elderly Affairs shall be
5	in the classified service of the state.
6	* * *
7	§153. Secretary of elderly affairs
8	There shall be a secretary of the Department of Elderly Affairs, who shall be
9	in the classified state civil service. The secretary shall be appointed by the governor
10	with consent of the Senate from recommendations for appointment by the Louisiana
11	Executive Board on Aging, and who shall serve at the pleasure of the governor at in
12	accordance with civil service rules. He shall be paid a salary fixed by the governor,
13	which salary shall not exceed the amount approved for such position by the
14	legislature while in session in accordance with civil service rules. The secretary
15	shall serve as the executive head and chief administrative officer of the Department
16	of Elderly Affairs and shall have the responsibility for the policies of the department
17	except as otherwise provided by this Title, and for the administration, control, and
18	operation of the functions, programs, and affairs of the department; provided that the
19	secretary shall perform his functions under the general control and supervision of the
20	governor.
21	§154. Powers and duties of secretary of elderly affairs
22	A. In addition to the functions, powers, and duties otherwise vested in the
23	secretary by law, he shall:
24	* * *
25	(3) In accordance with the Administrative Procedure Act, make, alter,
26	amend, and promulgate rules and regulations necessary for the administration of the
27	functions of the department, except as otherwise provided by this Title. The
28	secretary shall exercise rulemaking authority for the department, and any provision
29	of law granting the department authority to make rules or establish standards or rates

for the department or granting such authority to the Louisiana Executive Board on Aging shall be construed to grant such authority to the secretary. The rules and policies of the Office of Elderly Affairs in effect on the effective date of this Paragraph shall remain in effect as rules of the Department of Elderly Affairs and such rules shall remain in effect subject to their own provisions until changed as provided in this Paragraph.

* * *

§155. Deputy secretary

There may be a deputy secretary of the department, who shall be <u>in the</u> <u>classified state civil service</u>. If appointed, a deputy secretary shall be appointed by the secretary with consent of the <u>Senate and who shall serve</u> at the pleasure of the <u>secretary at in accordance with civil service rules</u>. He shall be paid a salary fixed by the secretary, which salary shall not exceed the amount approved for such position by the legislature while in session in accordance with civil service rules. The duties and functions of the deputy secretary shall be determined and assigned by the secretary. If appointed, he shall serve as acting secretary in the absence of the secretary.

§156. Undersecretary; functions; office of management and finance

A. There shall be an undersecretary of the Department of Elderly Affairs, who shall be in the classified state civil service. The undersecretary shall be appointed by the governor with consent of the Senate and who shall serve at the pleasure of the governor at secretary as provided in civil service rules. He shall be paid a salary fixed by the governor, which salary shall not exceed the amount approved for such position by the legislature while in session in accordance with civil service rules. The undersecretary shall be directly responsible to and shall perform his functions under the supervision and control of the secretary.

* * *

1	Section 2. R.S. 46:931, 932(8), 933(G), and 934(A) and (B) are hereby amended and
2	reenacted to read as follows:
3	§931. Creation; personnel
4	A. The Department of Elderly Affairs is hereby created. The department
5	shall exercise the powers and duties set forth in this Chapter or otherwise provided
6	by law. The department shall be administered by a secretary, who shall be in the
7	classified state civil service. The secretary shall be appointed by the governor,
8	subject to Senate confirmation, from recommendations for appointment by the
9	Louisiana Executive Board on Aging. The secretary shall serve at the pleasure of the
10	governor in accordance with civil service rules.
11	B. The secretary shall employ necessary staff to carry out the duties and
12	functions of the department as otherwise provided in this Chapter, or as otherwise
13	provided by law, including without limitation Title 36 of the Louisiana Revised
14	Statutes of 1950.
15	C. All officers and employees of the Department of Elderly Affairs shall be
16	in the classified state civil service as more specifically provided in Chapter 4 of Title
17	36 of the Louisiana Revised Statutes of 1950.
18	§932. Powers and duties
19	The department shall have the following powers and duties:
20	* * *
21	(8) To Through the secretary, to adopt and promulgate rules and regulations
22	that are deemed necessary to implement the provisions of this Chapter in accordance
23	with the provisions of the Administrative Procedure Act.
24	* * *
25	§933. Louisiana Executive Board on Aging established; membership; term of office;
26	compensation of members
27	* * *
28	G. The board may recommend make recommendations to the governor that
29	the secretary be replaced for disciplinary action against the secretary in accordance

with state civil service rules. The board shall adopt rules for the transaction of its business and shall keep a record of its resolutions, transactions, findings, and determinations. A majority of members shall constitute a quorum. The department shall provide office and meeting space and staff support for the board.

§934. Louisiana Executive Board On Aging; powers, duties, and functions

A. The board shall develop and implement make recommendations to the secretary relative to policies and procedures pertaining to the Department of Elderly Affairs and its functions, shall approve matters of policy and all and to rules and regulations promulgated by the board or for the department that pertain to elderly affairs and voluntary parish councils on aging, shall review and make recommendations to the secretary on matters of general importance and relevance to the planning, monitoring, coordination, and delivery of services to the elderly of the state, and shall prepare and submit an annual report to the legislature and to the governor sixty days prior to the legislative session.

B. The board shall adopt rules governing the functions of the department, including rules that prescribe the policies and procedures followed by the board and the department in the administration of its programs, all in accordance with the Administrative Procedure Act. The rules adopted by the board for the Office of Elderly Affairs in effect on the effective date of this Subsection shall remain in effect and shall be applicable to the board and the Department of Elderly Affairs and such rules shall remain in effect subject to their own provisions until changed as provided in this Subsection R.S. 36:154(A)(3).

23 * * *

Section 2. On and after the effective date of this Act, the Department of Elderly Affairs shall be the successor of the Office of Elderly Affairs as provided in Act No. 384 of the 2013 Regular Session of the Legislature and the provisions of this Act. On and after the effective date of this Act, the commissioner of administration shall take all actions necessary to provide for the transfer of all appropriations and allocations made to the Office of Elderly Affairs to the Department of Elderly Affairs. Notwithstanding any provision of law to the

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1 contrary, any appropriation or allocation of funds for any purpose, function, or program that 2 is assigned to the Department of Elderly Affairs by virtue of statutory enactment in the 3 Louisiana Revised Statutes of 1950 shall be deemed to have been made to the Department 4 of Elderly Affairs regardless of the entity to which such appropriation or allocation is made, 5 and the state treasurer shall redirect funds appropriated or allocated to any other department, agency, office, or entity for such purposes, functions, or programs to the Department of 6 7 Elderly Affairs. The provisions of this Section shall supersede any appropriation or 8 allocation to any other department, agency, office, or entity for such purposes, functions, or 9 programs assigned to the Department of Elderly Affairs by virtue of statutory enactment. 10 Section 3. This Act shall take effect and become operative if and when the proposed 11 amendment of Article IV of the Constitution of Louisiana contained in the Act which 12 originated as House Bill No. 343 of this 2014 Regular Session of the Legislature is adopted

DIGEST

at a statewide election and becomes effective.

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)]

Harrison HB No. 246

Abstract: Relative to the Department of Elderly Affairs, provides relative to officers and employees, rulemaking, and funding for the department.

<u>Present constitution</u> (Const. Art. X) provides that the state civil service is divided into the unclassified and the classified service and that persons not included in the unclassified service are in the classified service. Provides, in part, that the unclassified service includes the heads of each principal executive department appointed by the governor and one person holding a confidential position and one principal assistant or deputy to such officers. Also provides that additional positions may be added to the unclassified service and those positions may be revoked by rules adopted by a state civil service commission. The commission has added most officers of the 20 executive branch departments to the unclassified service.

<u>Proposed constitutional amendment</u> (HB No. 343) creates the Dept. of Elderly Affairs as an executive branch department and provides for its functions and funds. Provides, in part, that all officers and employees of the department shall be in the classified state civil service, notwithstanding any provision of Const. Art. X to the contrary, and that their appointments and compensation shall be in accordance with state civil service rules.

<u>Present law</u> (not effective; to become effective when an executive branch department is abolished or an additional department is authorized by constitutional amendment) (R.S. 36:153, 155, and 156) provides that the secretary of the Dept. of Elderly Affairs shall be appointed by the governor with Senate consent from recommendations by the La. Executive

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CODING: Words in struck through type are deletions from existing law; words <u>underscored</u> are additions.

Board on Aging to serve at the pleasure of the governor at a salary fixed by the governor not to exceed the amount approved by the legislature in session. Provides for an optional deputy secretary and for an undersecretary over the office of management and finance of the department. Provides for appointment and setting of salary of the deputy secretary (if appointed) by the secretary and of the undersecretary by the governor, with salaries limited to the amount approved by the legislature in session.

<u>Proposed law</u> provides for appointment of the secretary by the governor and for appointment of the deputy secretary (if one is appointed) and the undersecretary by the secretary.

<u>Present law</u> (R.S. 36:5) provides that the secretary, deputy secretary, undersecretary, and assistant secretaries of departments of the executive branch of state government shall be in the unclassified service of the state.

<u>Proposed law</u> (R.S. 36:5 and 151(D) and R.S. 46:931) provides that, notwithstanding <u>present law</u> the secretary, deputy secretary, undersecretary, and any assistant secretary and all officers and employees of the Dept. of Elderly Affairs shall be in the classified service of the state. Provides that the appointment and salary of the secretary, the deputy secretary (if appointed) and the undersecretary shall be in accordance with state civil service rules. Changes provision (R.S. 46:933) authorizing the La. Executive Board on Aging to make recommendations to the governor for replacement of the secretary and provides instead that the board may make recommendations to the governor for disciplinary action against the secretary in accordance with civil service rules.

<u>Proposed law</u> (R.S. 36:154(A)(3), R.S. 46:932(8) and 934) provides that provisions of law authorizing the Dept. of Elderly Affairs to make rules or establish standards or rates shall be construed to mean the secretary. Removes provisions for rulemaking by the La. Executive Board on Aging and provides for the board to make recommendations to the secretary.

Proposed law provides that on and after the effective date of the Act, the Dept. of Elderly Affairs shall be the successor of the Office of Elderly Affairs as provided in Acts 2013, No. 384 and the present Act. Requires the commissioner of administration to take all actions necessary to provide for the transfer of appropriations and allocations made to the Office of Elderly Affairs to the Dept. of Elderly Affairs. Provides that, notwithstanding any law to the contrary, any appropriation or allocation of funds for any purpose, function, or program assigned to the Dept. of Elderly Affairs by statutory enactment in the R.S. shall be deemed to have been made to the Dept. of Elderly Affairs regardless of the entity to which such appropriation or allocation is made, and requires the state treasurer to redirect funds appropriated or allocated to any other department, agency, office, or entity for such purposes, functions, or programs to the Dept. of Elderly Affairs. Provides that such proposed law supersedes any appropriation or allocation made to any other department, agency, office, or entity for such purposes, functions, or programs.

Effective if and when the proposed amendment of Article IV of the Constitution of La. contained in the Act which originated as House Bill No. 343 of this 2014 R.S. is adopted at a statewide election and becomes effective. (Jan. 1, 2015)

(Amends R.S. 36:5, 153, 154(A)(3), 155, and 156(A) and R.S. 46:931, 932(8), 933(G), and 934(A) and (B); Adds R.S. 36:151(D))