

2016 Regular Session

HOUSE BILL NO. 858

BY REPRESENTATIVE MONToucET

CIVIL SERVICE/FIRE & POL: Provides relative to the members of the municipal fire and police civil service board

1 AN ACT

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

6 Be it enacted by the Legislature of Louisiana:

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

9 §2476. Municipal fire and police civil service boards

10 * * *

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

14 (b) If the governing body fails to appoint the members as required in
15 Subparagraph (a) of this Paragraph and the state examiner has given written
16 notification to the governing body of its failure to appoint such members, then the

1 governing board shall make the appointments within ninety days following such
2 notification.

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

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

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

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

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

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

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

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

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

7 (ii) If, after the close of nominations for the employee member for the
8 respective department, the name of only one regular employee has been placed in
9 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 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 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.

24 * * *

25 §2536. Fire and police civil service boards

26 * * *

C.(1)(a) The first five members of a board shall be appointed by the governing body of the municipality, parish, or fire protection district, as the case may

1 be, during the ninety-day period immediately following the date that this Part takes
2 effect in a municipality, parish, or fire protection district under R.S. 33:2531.

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

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

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

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

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

23 ~~(b)~~(ii) If a list of nominations is not submitted within sixty days after
24 submission of request for such list, such failure shall be considered a failure to
25 perform a ministerial duty required by law of a public official or corporate officer.
26 To this end, the district attorney for the parish in which the institution is located shall
27 provoke the issuance of a writ of mandamus to compel the official or officer to act
28 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:

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

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

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

10 (ii) If, after the close of nominations for the employee member for the
11 respective department, the name of only one regular employee has been placed in
12 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 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 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.

22 * * *

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)]

HB 858 Original

2016 Regular Session

Montoucet

Abstract: Provides relative to the appointment of members of the municipal fire and police civil service board.

Present constitution creates a fire and police civil service system applicable to municipalities of over 13,000 in population and parishes and fire protection districts. Provides that the system is subject to Art. XIV, §15.1 of the 1921 constitution made statutory by the 1974 constitution.

Present law creates and provides for two fire and police civil service systems: (1) one applicable to any municipality which operates paid police and fire departments and which has a population of not fewer than 13,000 persons; and (2) one applicable to any parish, fire protection district, or municipality with a population of fewer than 13,000, but not fewer than 7,000 persons.

Proposed law retains present law.

Present law, relative to both systems, provides that a municipal fire and police civil service board is created in the municipal government. Provides that the board is composed of five members who shall serve without compensation. Requires that the first five members of a board be appointed by the governing body during the 90 day period immediately following the date that present law takes effect.

Proposed law retains present law additionally provides that if the governing body fails to appoint the members and the state examiner has given written notification to the governing body of its failure to appoint such members, then the governing board must make the appointments within 90 days following the notification. Requires the state examiner, if the governing body fails to make appointments as required by present law, to seek a writ of mandamus which will lie to the court of original and unlimited jurisdiction in the parish in which the office of state examiner is domiciled.

Present law, relative to the two members who shall be first nominated and elected by and from the regular employees of the fire and police departments, requires that such members be elected by secret ballot of the regular employees of their respective departments at an election to be called and held for that purpose by the chief of the department.

Proposed law retains present law but additionally provides that if, after the close of nominations, the name of only one regular employee has been placed in nomination, then that nominee shall be declared elected.

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

(Amends R.S. 33:2476(C) and 2536(C))