



GENERAL CIRCULAR OSE 2013-01 August 1, 2013

The Office of State Examiner is issuing this circular in order to provide information on the bills that were passed in the 2013 Legislative Session that affect the fire and police departments, the classified fire and police employees, and the civil service boards. We appreciate you taking the time to review the information below. The full text of the Acts and Resolutions may be accessed from our website at www.ose.louisiana.gov. We have also provided other information we feel will be helpful to the classified fire and police employees and the civil service boards.

We are pleased to announce the appointment of Mr. Robert (Bob) Lawrence as the new State Examiner, effective June 5, 2013. Bob has served the Louisiana Fire and Police Civil Service System for 22 years, having held progressively responsible positions within the Office of State Examiner, most recently as Deputy State Examiner. He can be reached at (225) 925-4416.

2013 ACTS THAT IMPACT THE MUNICIPAL FIRE AND POLICE CIVIL SERVICE LAWS

ACT 313 (HB 399 - Offices of the State Examiner and the Deputy State Examiner) - , effective August 1, 2013, amends Article XIV, Section 15.1 of the Louisiana

Constitution of 1974, and R.S. 33:2479. Act 313 provides that the state examiner and the deputy state examiner shall be a resident and qualified voter of the state; and shall have experience in personnel administration, classification, or employment testing in the classified civil service system. Appointment preference may be given to persons having such experience in the municipal fire and police civil service system. The state examiner and deputy state examiner shall serve on a full-time basis; and shall be paid traveling and living expenses while away from their places of residence. The state examiner shall be paid a salary set by the State Civil Service Commission in accordance with the State Civil Service Commission's uniform pay plan and shall be assigned to the same pay range to which the deputy director of state civil service is assigned. The deputy state examiner shall be paid a salary set by the state examiner in accordance with the State Civil Service Commission's uniform pay plan and shall be assigned to the same pay range which is two levels below the pay range to which the deputy director of state civil service is assigned. The state examiner and the deputy state examiner shall be subject to the rules adopted and promulgated by the State Civil Service Commission.

ACT 331 (HB 663 - Promotional Eligibility Lists and Working Test Period) - effective August 1, 2013, amends R.S. 33:2491(F), 33:2495, 33:2551(6), and 33:2555 and enacts

R.S. 33:2495.1.1 and 33:2555.1. Act 331 provides that the minimum and maximum period for which a name may remain upon a *promotional* employment list shall be twelve and *forty-eight months*, respectively, for each list.

Provides that any probational employee in a position of a competitive class of the classified police service, except an entry level police officer, and an entry level radio, police alarm, or signal system operator, who has served less than six months of his working test for any given position may be removed therefrom only with the prior approval of the board.

Provides that any such probational employee in the classified police service appointed to a position of a competitive class who is rejected after having served a working test of six months but not more than one year, may appeal to the board only upon the grounds that he has not been given a fair opportunity to prove his ability in the position.

Provides that any probational employee in a position of a promotional class of the classified police service, who has served less than three months of his working test for any given position may be removed therefrom only with the prior approval of the board. Any such probational employee may be removed only upon one of the following grounds: (i) he is unable or unwilling to perform satisfactorily the duties of the position to which he has been appointed, (ii) his habits and dependability do not merit his continuance therein. Provides that any such probational employee in the classified service may appear before the board and present his case before he is removed.

Provides that any such probational employee in the classified police service appointed to a position of a promotional class who is rejected after having served a working test of three months but not more than one year, may appeal to the board only upon the grounds that

he has not been given a fair opportunity to prove his ability in the position.

The minimum and maximum period for which a name may remain upon a *competitive* employment list established and maintained by the board for any of the various class of the positions in the classified fire and police service remains twelve and eighteen months, respectively, for each list.

Civil service laws providing for the provisions of the working test period for the fire classified service received minor revisions and have been rearranged for ease of reading. The application of the laws, however, have not been changed. The laws on the appointment of a Firefighter Recruit, Police Officer Recruit, and Fire Communications Officer Recruit in Shreveport were not revised but moved to R.S. 33:2495.1.1 (Act 282 of 1964) and R.S. 33:2551.1 (Amendments.)

ACT 362 (SB 207 - Civil Service System) - effective August 1, 2013, amends R.S. 33:2391, 33:2471, and 33:2591. Act 362 provides that in the event that the fire and police civil service of any municipality pursuant to Part II is determined by a final judgment of a court of competent jurisdiction to not be subject to Part II, the fire and police civil service in the municipality shall be subject to the jurisdiction of the state civil service system. Provides for the applicability of state civil service provisions in certain circumstances in R.S. 33:2391 (City Civil Service Law) and in R.S. 33:2591 (Fire and Police Civil Service Law for Municipalities between 250,000 and 500,000.)

**2013 CONCURRENT RESOLUTIONS
COMMENDATIONS TO
FIRE CHIEF LARRY HESS AND
FIRE CHIEF DENNIE BOYT**

SCR 58 - the Legislature of Louisiana commends and congratulates St. Tammany Parish Fire District No. 1 Fire Chief Larry Hess for 48 years in fire protection, upon his retirement on September 30, 2013. Chief Hess was appointed the Fire Chief of St. Tammany Parish Fire Protection District No. 1 on October 28, 2003.

SCR 79 - the Legislature of Louisiana commends and congratulates Natchitoches Fire Chief Dennie Boyt upon his retirement on May 1, 2013. Chief Boyt was appointed Fire Chief on April 17, 2003.

The staff of the Office of State Examiner would also like to thank Chief Hess and Chief Boyt for their many years of dedication and service to the citizens they served, the citizens of the State of Louisiana, and the assistance provided to our office.

**2013 ACTS THAT IMPACT THE
MEMBERS OF THE FIREFIGHTERS
RETIREMENT SYSTEM**

ACT 182 (HB 44 - public records of members of the Firefighter's Retirement System) - effective June 10, 2013, enacts R.S. 44:11(E). Act 182 provides that the home address of a member of the Firefighter's Retirement System is not confidential if that information is requested by a member of the Louisiana Legislature, an agency or employer reporting information to the system, or a recognized association of system members.

ACT 170 (SB 10 - provides for a cost-of-living adjustment) - effective June 30, 2013, amends R.S. 11:2178(M)(1)(a)(ii) and enacts R.S. 11:242(F), 11:243, and

11:2178(M)(1)(d). Act 170 provides for a cost-of-living adjustments and permanent benefit increases.

**2013 ACTS THAT IMPACT THE
MEMBERS OF THE MUNICIPAL
POLICE RETIREMENT SYSTEM**

ACT 236 (HB 58 - employees who were transferred in into the Municipal Police Retirement Systems on February 26, 2000) - effective June 30, 2013, amends R.S. 11:2213(11)(f) and enacts R.S. 11:2213(11)(g). Act 236 provides for an additional definition of employee to include any legal investigator who was transferred into the Municipal Police Retirement Systems on February 26, 2000, as a result of the merger agreement between the system and the city-parish.

ACT 170 (SB 10 - provides for a cost-of-living adjustment) - effective June 30, 2013, amends R.S. 11:2178(M)(1)(a)(ii) and enacts R.S. 11:242(F), 11:243, and 11:2178(M)(1)(d). Act 170 provides for a cost-of-living adjustments and permanent benefit increases.

**2013 RESOLUTION THAT IMPACTS
EVERY MUNICIPAL FIRE AND
POLICE CIVIL SERVICE BOARD,
FIRE AND POLICE DEPARTMENT,
FIRE BOARD OF COMMISSIONERS**

HCR 129 - the Legislature of Louisiana directs each public body that has a custodian of public records to make the identity and contact information of its custodian available to the public in a manner that will allow a member of the public to quickly determine the appropriate person to whom a public records request should be submitted, including by placing such information on the Internet.

ATTORNEY GENERAL OPINIONS

The full text of these opinions may be accessed from the Attorney General's website at <http://www.ag.state.la.us/Opinions.aspx>.

13-0075 (07-10-13) (Meetings of public bodies) - the Open Meetings Laws, R.S. 42:12 et seq., require that a quorum of a public body be physically present at a meeting. Therefore, a public body may not utilize telephone conference calls during a public meeting to obtain a quorum.

13-0036 (07-27-13) (New Iberia Municipal Fire and Police Civil Service Board) - the New Iberia Municipal Fire and Police Civil Service Board will remain a five member board despite the abolishment of the municipal police department. The governing body will not be able to make the appointment from the police department as set forth in R.S. 33:2476 (3); therefore, the position that can only be filled from the ranks of the police department will be vacant. Although the board will contain a vacancy, the definition of a quorum does not change. Absent remedial legislation, the New Iberia Municipal Fire and Police Civil Service Board must continue to abide by R.S. 33:2476.

13-0069 (06-28-13) (Dual Office Holding) - the Dual Officeholding and Dual Employment Laws, R.S. 42:61, et seq., do not prohibit a Fire Captain with the City of Crowley Fire Department who works full time in that position, from serving part time on a Fire Protection District Board covering another area of Acadia Parish.

12-0246 (04-16-13) (Functions of the Office of State Examiner) - pursuant to R.S. 36:801, the Department of State Civil Service is responsible for accounting and budget control, management and program analysis, grant management, payroll, personnel management, and procurement and contract management for the Office of the State Examiner of Municipal

Fire and Police Civil Service.

13-0021 (02-21-13) (Dual Officeholding) - The provisions of the Dual Officeholding and Dual Employment Law, R.S. 42:61, et seq., prohibit a full time firefighter from holding a second full time position as a firefighter in a different department.

11-0096 (12-12-12) (Prohibited Donation of Public Funds) - Article VII, Section 14(a) of the Louisiana Constitution prohibits the donation of funds of the State of Louisiana or any of its political subdivisions to any person, private or public. To compensate central office employees of Iberville Parish School Board when they are absent without leave for non-work, amounts to a prohibited donation of public funds in violation of La. Const. art. VII, § 14 (1974).

11-0273 (07-16-12) (Prohibited Donation of Public Funds) - the Louisiana Constitution, Article VII, Section 14(A) is violated when public funds or property are gratuitously alienated. In order for an expenditure or transfer of public funds to be permissible under the Louisiana Constitution, Article VII, Section 14(A), the public entity must have the legal authority to make the expenditure and must show: (i) a public purpose for the expenditure or transfer that comports with the governmental purpose for which the public entity has legal authority to pursue; (ii) that the expenditure or transfer, taken as a whole, does not appear to be gratuitous; and (iii) that the public entity has a demonstrable, objective, and reasonable expectation of receiving at least equivalent value in exchange for the expenditure or transfer of public funds.

CUSTODIAN OF THE RECORDS OF THE OFFICE OF STATE EXAMINER

Mr. Robert S. Lawrence, the State Examiner, is the custodian of the records of the Office of

State Examiner. You may contact Mr. Lawrence by calling 225-925-4416. The Office of State Examiner is in II United Plaza located at 8550 United Plaza Blvd., Suite 901, Baton Rouge, Louisiana 70809-2296. This information is also available on our website at www.ose.louisiana.gov.

CIVIL SERVICE BOARD TRAINING VIDEO

If you have not had an opportunity to view our training video on civil service board meetings, you may do so by visiting our website at www.ose.louisiana.gov. Click on the blue highlighted tab titled “MFPCS Training Videos” on the left side of our home page and then click the video link.

FIRE AND POLICE EXAMINATIONS AND THE CIVIL SERVICE BOARD’S RESPONSIBILITIES

As you may be aware, your civil service board has a ministerial duty under civil service law to create and maintain eligibility lists for the fire and police classified service. Therefore, it is the board’s responsibility to call for examinations, not the fire and police chiefs, when required by law and as the needs of the service require.

Act 331 revised civil service law to provide that the minimum and maximum period for which a name may remain upon a promotional employment list shall be twelve and forty-eight months, respectively, for each list. Please be aware, however, that civil service law mandates that the civil service board must give promotional examinations at least one time during each successive period of eighteen (18) months or as the needs of the service require.

As a reminder, your board must first meet and

verify that the examination does need to be given and then approve calling for the examination. Your board must then post for all examinations at each station and building of the respective department for at least thirty (30) calendar days. All competitive examinations must also be posted in the local official journal at least four (4) times during the thirty day posting period. The Office of State Examiner requests that your board forward a copy of the minutes from the meeting indicating that the board called for the examination and a copy of the posting notice as soon as possible. The receipt of these documents will start the process of scheduling the examination on the earliest date possible.

The individual designated by your board to receive applications must accept all applications submitted. Inasmuch as your board must reject all applications received after the application deadline, we suggest that every application be date stamped and presented to your board at a meeting. Only your board, not one individual, has the authority to approve and reject applications. Therefore, your board must meet to review all the applications received and approve or reject the applications based on the qualification requirements adopted by your board for the class. All approved applicants must be notified of the date, time, and place of the examination at least five (5) calendar days prior to the date of the exam.

Please be aware that all applicants for both competitive and promotional examinations must attach a copy of every document that is needed in order for your board to verify that they meet the qualification requirements for the class. Therefore, applicants for promotional examinations must attach a copy of the proper document (birth certificate if born in the United States, U.S. Passport, or Certificate of Naturalization) to verify that they are citizens of the United States.

**PROHIBITED
POLITICAL ACTIVITIES
AND
SOCIAL NETWORKING SITES**

Louisiana’s Fire and Police Civil Service Law prohibits classified fire and police employees from engaging in political activities, both on and off duty. Political activity is defined in the Louisiana Constitution as any effort to support or oppose a political candidate or party. Such activity includes, but is not limited to, making contributions of time and money to political candidates, parties, campaigns, organizations, and factions, as well as making statements of support or opposition in elections, except those which are expressed privately.

The growing popularity of social networking sites and smart-phone applications, such as Facebook, MySpace, Instagram, LinkedIn, and Twitter (to name just a few) represents a new and increasing exposure to prohibited political activity. Although these sites may appear to offer a venue of private expression, we advise that a text, a tweet, or a post to one’s “wall” or “page”, cannot be considered private, regardless of privacy settings. We believe it is necessary to caution classified employees to avoid making any statement or comment of a political nature which may be construed to be in violation of the political prohibitions. Be cautious also of “liking” political sites, comments, and photographs made by social networkers, making online contributions to political parties or campaigns, or promoting or disparaging political web-sites. Once a message is launched into cyberspace, expect that it may be shared by anyone with anyone for any purpose.

The only penalty for violating the prohibitions of Article X, Section 20 of the Constitution of the State of Louisiana, R.S. 33:2504, and R.S. 33:2564 is termination, a \$500 fine, and ineligibility to serve in the fire and police classified service for a period of six years.

As always, if you have any questions, please do not hesitate to call our office at 225-925-4400. We look forward to the opportunity to assist you.

**PLEASE VISIT OUR WEBSITE
at www.ose.louisiana.gov.**



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