

# ARTICLE X. PUBLIC OFFICIALS AND EMPLOYEES

## PART I. STATE AND CITY CIVIL SERVICE

### §1. Civil Service Systems

**Section 1.(A) State Civil Service.** The state civil service is established and includes all persons holding offices and positions of trust or employment in the employ of the state, or any instrumentality thereof, and any joint state and federal agency, joint state and parochial agency, or joint state and municipal agency, regardless of the source of the funds used to pay for such employment. It shall not include members of the state police service as provided in Part IV of this Article or persons holding offices and positions of any municipal board of health or local governmental subdivision.

**(B) City Civil Service.** The city civil service is established and includes all persons holding offices and positions of trust or employment in the employ of each city having over four hundred thousand population and in every instrumentality thereof. However, paid firemen and municipal policemen may be excluded if a majority of the electors in the affected city voting at an election held for that purpose approve their exclusion. The election shall be called by the municipal governing authority within one year after the effective date of this constitution.

*Amended by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

### §2. Classified and Unclassified Service

**Section 2.(A) Classified Service.** The state and city civil service is divided into the unclassified and the classified service. Persons not included in the unclassified service are in the classified service.

**(B) Unclassified Service.** The unclassified service shall include the following officers and employees in the state and city civil service:

- (1) elected officials and persons appointed to fill vacancies in elective offices;
- (2) the heads of each principal executive department appointed by the governor, the mayor, or the governing authority of a city;
- (3) city attorneys;

(4) registrars of voters;

(5) members of state and city boards, authorities, and commissions;

(6) one private secretary to the president of each college or university;

(7) one person holding a confidential position and one principal assistant or deputy to any officer, board, commission, or authority mentioned in (1), (2), (4), or (5) above, except civil service departments;

(8) members of the military or naval forces;

(9) teaching and professional staffs, and administrative officers of schools, colleges, and universities of the state, and bona fide students of those institutions employed by any state, parochial, or municipal agency;

(10) employees, deputies, and officers of the legislature and of the offices of the governor, lieutenant governor, attorney general, each mayor and city attorney, of police juries, school boards, assessors, and of all offices provided for in Article V of this constitution except the offices of clerk of the municipal and traffic courts in New Orleans;

(11) commissioners of elections, watchers, and custodians and deputy custodians of voting machines; and

(12) railroad employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal law.

Additional positions may be added to the unclassified service and those positions may be revoked by rules adopted by a commission.

### **§3. State Civil Service Commission**

Section 3.(A) Composition. The State Civil Service Commission is established and shall be domiciled in the state capital. It shall be composed of seven members who are electors of this state, four of whom shall constitute a quorum. No more than one appointed member shall be from each congressional district.

(B) Appointment. The members shall be appointed by the governor, as hereinafter provided, for overlapping terms of six years.

(C) Nominations. The presidents of Centenary College at Shreveport, Dillard University at

New Orleans, Louisiana College at Pineville, Loyola University at New Orleans, Tulane University of Louisiana at New Orleans, and Xavier University at New Orleans, after giving consideration to representation of all groups, each shall nominate three persons. The governor shall appoint one member of the commission from the three persons nominated by each president. One member of the commission shall be elected by the classified employees of the state from their number as provided by law. A vacancy for any cause shall be filled by appointment or election in accordance with the procedure or law governing the original appointment or election, and from the same source. Within thirty days after a vacancy occurs, the president concerned shall submit the required nominations. Within thirty days thereafter, the governor shall make his appointment. If the governor fails to appoint within thirty days, the nominee whose name is first on the list of nominees automatically shall become a member of the commission. If any nominating authority fails to submit nominees in the time required, or if one of the named institutions ceases to exist, the governor shall make the appointment to the commission.

#### **§4. City Civil Service Commission**

Section 4.(A) Creation; Membership; Domicile. A city civil service commission shall exist in each city having a population exceeding four hundred thousand. The domicile of each commission shall be in the city it serves. Each commission shall be composed of five members, who are electors of the city, three of whom shall constitute a quorum. The members shall serve overlapping terms of six years as hereinafter provided.

(B) New Orleans; Nomination and Appointment. In New Orleans, the presidents of Dillard University, Loyola University, Tulane University of Louisiana, and Xavier University, after giving consideration to representation of all groups, each shall nominate three persons. In addition, the employees in the classified service of the city of New Orleans shall nominate three persons in the classified service of the city of New Orleans by means of an election called for that purpose. The municipal governing authority shall appoint one member of the commission from the three persons nominated by each nominating authority.

(C) Other Cities; Nomination and Appointment. In each other city subject to this Section, the presidents of any five institutions of higher education in the state, selected by the governing authority of the respective city, each shall nominate three persons, after giving consideration to representation of all groups. The municipal governing authority shall appoint one member of the commission from the three persons nominated by each.

(D) Vacancies. A vacancy shall be filled by appointment in accordance with the procedure for the original appointment and from the same source. Within thirty days after a vacancy occurs, in a seat held by a university nominee, the university president concerned shall submit the required nominations. Within sixty days after this amendment is ratified by the

electors of the state of Louisiana, and when a vacancy occurs in a seat held by a nominee nominated by employees in the classified service, there shall be held an election at which the employees in the classified service shall nominate three persons in accordance with this Section. Within thirty days thereafter, the municipal governing authority shall make the appointment. If the municipal governing authority fails to make the appointment within the thirty days, the nominee whose name is first on the list of nominees automatically shall become a member of the commission. If one of the nominating authorities fails to submit nominees in the time required, or if one of the named institutions ceases to exist, the municipal governing authority shall make the appointment.

(E) New Orleans; Implementation of Certain Member. The member appointed from nominations by the classified employees of the city of New Orleans shall be the successor to the member nominated by the president of St. Mary's Dominican College and the initial member so appointed shall take office at the expiration of the term of the member who took office on April 30, 1987.

*Amended by Acts 1987, No. 949, §1, approved Nov. 21, 1987, eff. Dec. 24, 1987.*

## **§5. Removal**

Section 5. A member of the state or of a city civil service commission may be removed by the governor or the governing authority, as the case may be, for cause, after being served with written specifications of the charges against him and being afforded an opportunity for a public hearing thereon by the appointing authority.

## **§6. Department of Civil Service; Directors**

Section 6.(A) State Department. A Department of State Civil Service is established in the executive branch of the state government.

(B) City Departments. A department of city civil service shall exist in each city having a population exceeding four hundred thousand.

(C) Directors. Each commission shall appoint a director, after competitive examination, who shall be in the classified service. He shall be the administrative head of his department. Each director shall appoint personnel and exercise powers and duties to the extent prescribed by the commission appointing him.

## **§7. Appointments; Promotions**

Section 7. Permanent appointments and promotions in the classified state and city service shall be made only after certification by the appropriate department of civil service under

a general system based upon merit, efficiency, fitness, and length of service, as ascertained by examination which, so far as practical, shall be competitive. The number to be certified shall not be less than three; however, if more than one vacancy is to be filled, the name of one additional eligible for each vacancy may be certified. Each commission shall adopt rules for the method of certifying persons eligible for appointment, promotion, reemployment, and reinstatement and shall provide for appointments defined as emergency and temporary appointments if certification is not required.

## **§8. Appeals**

Section 8.(A) Disciplinary Actions. No person who has gained permanent status in the classified state or city service shall be subjected to disciplinary action except for cause expressed in writing. A classified employee subjected to such disciplinary action shall have the right of appeal to the appropriate commission pursuant to Section 12 of this Part. The burden of proof on appeal, as to the facts, shall be on the appointing authority.

(B) Discrimination. No classified employee shall be discriminated against because of his political or religious beliefs, sex, or race. A classified employee so discriminated against shall have the right of appeal to the appropriate commission pursuant to Section 12 of this Part. The burden of proof on appeal, as to the facts, shall be on the employee.

*Amended by Acts 1982, No. 883, §1, approved Sept. 11, 1982, eff. Oct. 16, 1982.*

## **§9. Prohibitions Against Political Activities**

Section 9.(A) Party Membership; Elections. No member of a civil service commission and no officer or employee in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office except to seek election as the classified state employee serving on the State Civil Service Commission; or be a member of any national, state, or local committee of a political party or faction; make or solicit contributions for any political party, faction, or candidate; or take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he desires.

(B) Contributions. No person shall solicit contributions for political purposes from any classified employee or official or use or attempt to use his position in the state or city service to punish or coerce the political action of a classified employee.

(C) Political Activity Defined. As used in this Part, "political activity" means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election. The support of issues involving bonded indebtedness, tax

referenda, or constitutional amendments shall not be prohibited.

## **§10. Rules; Investigations; Wages and Hours**

Section 10.(A) Rules. (1) Powers. Each commission is vested with broad and general rulemaking and subpoena powers for the administration and regulation of the classified service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require an appointing authority to institute an employee training and safety program; and generally to accomplish the objectives and purposes of the merit system of civil service as herein established. It may make recommendations with respect to employee training and safety.

(2) Veterans. The state and city civil service departments shall accord a five-point preference in original appointment to each person who served honorably in the armed forces of the United States during a war declared by the United States Congress; or in a peacetime campaign or expedition for which campaign badges are authorized; or during war period dates or dates of armed conflicts as provided by state law enacted by two-thirds of the elected members of each house of the legislature. The state and city civil service departments shall accord a ten-point preference in original appointment to each honorably discharged veteran who served either in peace or in war and who has one or more disabilities recognized as service-connected by the Veterans Administration; to the spouse of each veteran whose physical condition precludes his or her appointment to a civil service job in his or her usual line of work; to the unremarried widow of each deceased veteran who served in a war period, as defined above, or in a peacetime campaign or expedition; or to the unremarried widowed parent of any person who died in active wartime or peacetime service or who suffered total and permanent disability in active wartime or peacetime service; or the divorced or separated parents of any person who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service. However, only one ten-point preference shall be allowed in the original appointment to any person enumerated above. If the ten-point preference is not used by the veteran, either because of the veteran's physical or mental incapacity which precludes his appointment to a civil service job in his usual line of work or because of his death, the preference shall be available to his spouse, unremarried widow, or eligible parents as defined above, in the order specified. However, any such preference may be given only to a person who has attained at least the minimum score required on each test and who has received at least the minimum rating required for eligibility.

(3) Layoffs; Preference Employees. When a position in the classified service is abolished, or needs to be vacated because of stoppage of work from lack of funds or other causes,

preference employees (ex-members of the armed forces and their dependents as described in this Section) whose length of service and efficiency ratings are at least equal to those of other competing employees shall be retained in preference to all other competing employees. However, when any function of a state agency is transferred to, or when a state agency is replaced by, one or more other state agencies, every preference employee in classifications and performing functions transferred, or working in the state agency replaced, shall be transferred to the replacing state agency or agencies for employment in a position for which he is qualified before that state agency or agencies appoint additional employees for such positions from eligible lists. The appointing authority shall give the director written notice of any proposed lay-off within a reasonable length of time before its effective date, and the director shall issue orders relating thereto which he considers necessary to secure compliance with the rules. No rule, regulation, or practice of the commission, of any agency or department, or of any official of the state or any political subdivision shall favor or discriminate against any applicant or employee because of his membership or non-membership in any private organization; but this shall not prohibit any state agency, department, or political subdivision from contracting with an employee organization with respect to wages, hours, grievances, working conditions, or other conditions of employment in a manner not inconsistent with this constitution, a civil service law, or a valid rule or regulation of a commission.

(4) Effect. Rules adopted pursuant hereto shall have the effect of law and be published and made available to the public. Each commission may impose penalties for violation of its rules by demotion in or suspension or discharge from position, with attendant loss of pay.

(B) Investigations. Each commission may investigate violations of this Part and the rules, statutes, or ordinances adopted pursuant hereto.

(C) Wages and Hours. Any rule or determination affecting wages or hours shall have the effect of law and become effective only after approval by the governor or the appropriate governing authority.

*Amended by Acts 1989, No. 848, §1, approved Oct. 6, 1990, eff. Nov. 8, 1990; Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991; Acts 1995, No. 1327, §1, approved Oct. 21, 1995, eff. Nov. 23, 1995.*

## **§11. Penalties**

Section 11. Willful violation of any provision of this Part shall be a misdemeanor punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

## **§12. Appeal**

Section 12.(A) State. The State Civil Service Commission shall have the exclusive power and authority to hear and decide all removal and disciplinary cases, with subpoena power and power to administer oaths. It may appoint a referee, with subpoena power and power to administer oaths, to take testimony, hear, and decide removal and disciplinary cases. The decision of a referee is subject to review by the commission on any question of law or fact upon the filing of an application for review with the commission within fifteen calendar days after the decision of the referee is rendered. If an application for review is not timely filed with the commission, the decision of the referee becomes the final decision of the commission as of the date the decision was rendered. If an application for review is timely filed with the commission and, after a review of the application by the commission, the application is denied, the decision of the referee becomes the final decision of the commission as of the date the application is denied. The final decision of the commission shall be subject to review on any question of law or fact upon appeal to the court of appeal wherein the commission is located, upon application filed with the commission within thirty calendar days after its decision becomes final. Any referee appointed by the commission shall have been admitted to the practice of law in this state for at least three years prior to his appointment.

(B) Cities. Each city commission established by Part I of this Article shall have the exclusive power and authority to hear and decide all removal and disciplinary cases, with subpoena power and power to administer oaths. It may appoint a referee to take testimony, with subpoena power and power to administer oaths to witnesses. The decision of a commission shall be subject to review on any question of law or fact upon appeal to the court of appeal wherein the commission is located, upon application filed with the commission within thirty calendar days after its decision becomes final.

*Amended by Acts 1982, No. 883, §1, approved Sept. 11, 1982, eff. Oct. 16, 1982.*

### **§13. Appropriations**

Section 13.(A) State. The legislature shall make adequate appropriations to the State Civil Service Commission and to the Department of State Civil Service to enable them to implement this Part efficiently and effectively. The amount so appropriated shall not be subject to veto by the governor.

(B) Cities. Each city subject to this Part shall make adequate annual appropriations to enable its civil service commission and department to implement this Part efficiently and effectively.

*Acts 1997, No. 1489, §5, approved Oct. 3, 1998, eff. Nov. 5, 1998.*

### **§14. Acceptance of Act; Other Cities, Parishes, City and Parish Governed Jointly**

Section 14.(A) Local Option. Each city having a population exceeding ten thousand but not exceeding four hundred thousand, each parish, and each parish governed jointly with one or more cities under a plan of government, having a population exceeding ten thousand, according to the latest official decennial federal census, may elect to be governed by this Part by a majority vote of its electors voting at an election held for that purpose. The election shall be ordered and held by the city, the parish, or the city-parish, as the case may be, upon (a) the adoption of an ordinance by the governing authority calling the election; or (b) the presentation to the governing authority of a petition calling for such an election signed by electors equal in number to five percent of the registered voters of the city, the parish, or the city-parish, as the case may be.

(B) Acceptance. If a majority of the electors vote to adopt this Part, its provisions shall apply permanently to the city, the parish, or the city-parish, as the case may be, and shall govern it as if this Part had originally applied to it. In such case, all officers and employees of the city, the parish, or the city-parish, as the case may be, who have acquired civil service status under a civil service system established by legislative act, city charter, or otherwise, shall retain that status and thereafter shall be subject to and be governed by this Part and the rules and regulations adopted under it.

(C) Rejection. If a majority of the electors vote against the adoption of this Part, the question of its adoption shall not be resubmitted to the voters of the political subdivision within one year thereafter.

## **§15. City, Parish Civil Service System; Creation; Prohibition**

Section 15. Nothing in this Part shall prevent the establishment by the legislature, or by the respective parish governing authority, of a parish civil service system in one or more parishes, applicable to any or all parish employees, except teaching and professional staffs and administrative officers of schools, or the establishment by the legislature or by the respective municipal governing authority of a municipal civil service system in one or more municipalities having a population of less than four hundred thousand, in any manner now or hereafter provided by law. However, paid firemen and paid municipal policemen in a municipality operating a regularly paid fire and police department and having a population exceeding thirteen thousand, and paid firemen in all parishes and in fire protection districts, are expressly excluded from such a civil service system.

Nothing in this Part shall permit inclusion in the local civil service of officials and employees listed in Section 2 of this Article.

No law enacted after the effective date of this constitution establishing a civil service system applicable to one or more parishes or to one or more municipalities having a

population of less than four hundred thousand shall be effective in any parish or in any municipality until approved by ordinance adopted by the governing authority of the parish or municipality.

## PART II. FIRE AND POLICE CIVIL SERVICE

### **§16. Establishment of System**

Section 16. A system of classified fire and police civil service is created and established. It shall apply to all municipalities having a population exceeding thirteen thousand and operating a regularly paid fire and municipal police department and to all parishes and fire protection districts operating a regularly paid fire department.

### **§17. Appointments and Promotions**

Section 17. Permanent appointments and promotions in municipal fire and police civil service shall be made only after certification by the applicable municipal fire and police civil service board under a general system based upon merit, efficiency, fitness, and length of service as provided in Article XIV, Section 15.1 of the Constitution of 1921, subject to change by law enacted by two-thirds of the elected members of each house of the legislature.

### **§18. Prior Provisions**

Section 18. Except as inconsistent with this Part, the provisions of Article XIV, Section 15.1 of the Constitution of 1921 are retained and continued in force and effect as statutes. By law enacted by two-thirds of the elected members of each house, the legislature may amend or otherwise modify any of those provisions, but it may not abolish the system of classified civil service for such firemen and municipal policemen or make the system inapplicable to any municipality having a population exceeding thirteen thousand according to the latest decennial federal census or to any parish or fire protection district operating a regularly paid fire department. However, in a municipality having a population exceeding four hundred thousand, paid firemen and municipal policemen shall be included if a majority of the electors therein voting at an election held for that purpose approve their inclusion. Such an election shall be called by the governing authority of the affected city within one year after the effective date of this constitution.

### **§19. Exclusion**

Section 19. Nothing in Part I of this Article authorizing cities or other political subdivisions to be placed under the provisions of said Part by election, act of the legislature, or ordinance of the local governing authority shall authorize the inclusion in a

city civil service system of firemen and policemen in any municipality having a population greater than thirteen thousand but fewer than four hundred thousand and operating a regularly paid fire and municipal police department or in any parish or fire protection district operating a regularly paid fire department. Such firemen and policemen are expressly excluded from any such system.

## **§20. Political Activities**

Section 20. Article XIV, Section 15.1, Paragraph 34 of the Constitution of 1921 is retained and continued in force and effect.

## **PART III. OTHER PROVISIONS**

### **§21. Code of Ethics**

Section 21. The legislature shall enact a code of ethics for all officials and employees of the state and its political subdivisions. The code shall be administered by one or more boards created by the legislature with qualifications, terms of office, duties, and powers provided by law. Decisions of a board shall be appealable, and the legislature shall provide the method of appeal.

### **§22. Dual Employment and Dual Officeholding**

Section 22. The legislature shall enact laws defining and regulating dual employment and defining, regulating, and prohibiting dual officeholding in state and local government.

### **§23. Compensation of Elected Public Officials; Reduction**

Section 23. The compensation of an elected public official shall not be reduced during the term for which he is elected.

### **§24. Impeachment**

Section 24.(A) Persons Liable. A state or district official, whether elected or appointed, shall be liable to impeachment for commission or conviction, during his term of office of a felony or for malfeasance or gross misconduct while in such office.

(B) Procedure. Impeachment shall be by the House of Representatives and trial by the Senate, with senators under oath or affirmation for the trial. The concurrence of two-thirds of the elected senators shall be necessary to convict. The Senate may try an impeachment whether or not the House is in session and may adjourn when it deems proper. Conviction upon impeachment shall result in immediate removal from office. Nothing herein shall

prevent other action, prosecution, or punishment authorized by law.

## **§25. Removal by Suit; Officials Subject**

Section 25. For the causes enumerated in Paragraph (A) of Section 24 of this Article, the legislature shall provide by general law for the removal by suit of any state, district, parochial, ward, or municipal official except the governor, lieutenant governor, and judges of the courts of record.

### **§25.1. Removal by Suit; State, District, Parochial, Ward, or Municipal Employees**

Section 25.1. Notwithstanding any provision of this Article to the contrary, the legislature shall provide by general law for the removal of any state, district, parochial, ward, or municipal employee, whether classified or unclassified, from his position of employment, for conviction, during his employment, of a felony as defined by law. "Conviction", as used in this Section, means a conviction that is final and all appellate review of the original trial court proceedings is exhausted.

*Added by Acts 2002, 1 ES, No. 166, §1, approved Nov. 5, 2002, eff. Dec. 10, 2002.*

## **§26. Recall**

Section 26. The legislature shall provide by general law for the recall by election of any state, district, parochial, ward, or municipal official except judges of the courts of record. The sole issue at a recall election shall be whether the official shall be recalled.

## **§27. Filling of Vacancies**

Section 27.(A) Gubernatorial Appointment; Election. If no other provision therefor is made by this constitution, by statute, by local government charter, by home rule charter or plan of government, or by ordinance, the governor may fill a vacancy occurring in any elective office. When a vacancy occurs in the office and the unexpired portion of the term exceeds one year, the vacancy shall be filled at an election, as provided by law, and the appointment shall be effective only until a successor takes office.

(B) Qualifications. Nothing in this Section shall change the qualifications for any office, and every appointee must be otherwise eligible to hold the office to which appointed.

## **§28. Definition of Vacancy**

Section 28. A vacancy, as used in this Constitution, shall occur in the event of death,

resignation, removal by any means, or failure to take office for any reason.

## **§29. Retirement and Survivor's Benefits**

Section 29.(A) Public School Employees. The legislature shall provide for retirement of teachers and other employees of the public educational system through establishment of one or more retirement systems. Membership in such a retirement system shall be a contractual relationship between employee and employer, and the state shall guarantee benefits payable to a member or retiree or to his lawful beneficiary upon his death.

(B) Other Officials and Employees. The legislature shall enact laws providing for retirement of officials and employees of the state, its agencies, and its political subdivisions, including persons employed jointly by state and federal agencies other than those in military service, through the establishment of one or more retirement systems. Membership in any retirement system of the state or of a political subdivision thereof shall be a contractual relationship between employee and employer, and the state shall guarantee benefits payable to a member of a state retirement system or retiree or to his lawful beneficiary upon his death.

(C) Retirement Systems; Change; Notice. No proposal to effect any change in existing laws or constitutional provisions relating to any retirement system for public employees shall be introduced in the legislature unless notice of intention to introduce the proposal has been published, without cost to the state, in the official state journal on two separate days. The last day of publication shall be at least thirty days before introduction of the bill. The notice shall state the substance of the contemplated law or proposal, and the bill shall contain a recital that the notice has been given.

(D) Compensation for Survivors of Law Enforcement Officers and Firemen. The legislature shall establish a system, including the expenditure of public funds, for compensating the surviving spouses and dependent children of law enforcement officers, firemen, and personnel, as defined by law, who die, or who died after June 30, 1972, as a result of injury sustained in the performance of official duties or in the protection of life or property while on or off duty.

(E) Actuarial Soundness. (1) The actuarial soundness of state and statewide retirement systems shall be attained and maintained and the legislature shall establish, by law, for each state or statewide retirement system, the particular method of actuarial valuation to be employed for purposes of this Section.

(2) For public retirement systems whose benefits are guaranteed by this constitution as is specified in Paragraphs (A) and (B) of this Section:

(a) The legislature shall, by law, determine and set all required contributions to be made by members. However, until the unfunded accrued liability referenced in (c) below is eliminated, this determination and setting shall not cause the ratio of employee contributions to total contributions, on the basis of each particular plan or classification within each particular retirement system, to exceed such ratio as it existed on January 1, 1987. Upon elimination of the unfunded accrued liability referenced in (c) below, this determination and setting shall not cause a member's contribution to exceed an amount contributed on his behalf as an employer contribution.

(b) The legislature shall, in each fiscal year, by law, provide an amount necessary to fund the employer portion of the normal cost, which shall be determined in accordance with the method of valuation established under (1) above.

(c) The legislature shall, in each fiscal year, by law, provide for the amortization of the unfunded accrued liability existing as of June 30, 1988, which shall be determined in accordance with the method of valuation selected in (1) above, by the year 2029, commencing with Fiscal Year 1989-1990.

(d) Amounts provided for under (b) and (c) above are hereby guaranteed payable, each fiscal year, to each retirement system covered herein. If, for any fiscal year, the legislature fails to provide these guaranteed payments, upon warrant of the governing authority of the retirement system, following the close of said fiscal year, the state treasurer shall pay the amount guaranteed directly from the state general fund.

(3) For statewide public retirement systems not covered by Paragraphs (A) and (B) of this Section, the legislature shall determine all required contributions to be made by members, contributions to be made by employers, and dedicated taxes required for the sound actuarial maintenance of the systems, including the elimination of the unfunded accrued liability as of the end of the 1988-1989 Fiscal Year, under the method of valuation selected under (1) above, by the year 2029, commencing with Fiscal Year 1989-1990.

(4) For all state and statewide public retirement systems, neither the state nor the governing authority of such system shall take any action that shall cause the actuarial present value of expected future expenditures of the retirement system to exceed or further exceed the sum of the current actuarial value of assets and the actuarial present value of expected future receipts of the retirement system, except with respect to the following:

(a) Normal business operating expenses of the retirement system.

(b) Capital outlay expenditures of the retirement system.

(c) Management of investments of the retirement system.

(d) Cost-of-living increases to retirees, as provided by law, provided the retirement system is approaching actuarial soundness as provided by law, and the granting of such increase does not cause an increase in the actuarially required contribution rate.

(5) All assets, proceeds, or income of the state and statewide public retirement systems, and all contributions and payments made to the system to provide for retirement and related benefits shall be held, invested as authorized by law, or disbursed as in trust for the exclusive purpose of providing such benefits, refunds, and administrative expenses under the management of the boards of trustees and shall not be encumbered for or diverted to any other purpose. The accrued benefits of members of any state or statewide public retirement system shall not be diminished or impaired. Future benefit provisions for members of the state and statewide public retirement systems shall only be altered by legislative enactment.

*Amended by Acts 1987, No. 947, §1, approved Nov. 21, 1987, eff. Dec. 24, 1987.*

### **§29.1. Part-time Public Officials**

Section 29.1.(A) Except as provided in Paragraph (B), the following elected or appointed officials are hereby deemed to be part-time public servants who, based on such part-time service, shall not participate in, or receive credit for service in, any public retirement system, fund, or plan sponsored by the state of Louisiana or any instrumentality or political subdivision thereof:

- (1) Any legislator or any member of a school board, levee board, police jury, or parish council.
- (2) Any member of a city council, city-parish council, or town council or any alderman or any constable.
- (3) Any member of a board or commission established by the state of Louisiana or any instrumentality or political subdivision thereof unless authorized by law enacted by two-thirds of the elected members of each house.
- (4) Any person holding or serving in any other elected or appointed position or office defined to be part-time public service by law enacted by two-thirds of the elected members of each house.

(B) The provisions of Paragraph (A) shall not apply to any person who is serving on January 1, 1997, in any elected or appointed position set forth in Paragraph (A) and who is also a member on January 1, 1997 of a retirement system covering that position.

(C) The provisions of this Section shall not apply to participation in the Louisiana Public Employees Deferred Compensation Plan, or its successor.

(D) This Section shall become effective on January 1, 1997.

*Added by Acts 1996, 1st Ex. Sess., No. 99, §1, approved Nov. 5, 1996, eff. Jan. 1, 1997.*

### **§30. Oath of Office**

Section 30. Every official shall take the following oath or affirmation: "I, . . ., do solemnly swear (or affirm) that I will support the constitution and laws of the United States and the constitution and laws of this state and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as . . ., according to the best of my ability and understanding, so help me God."

## **PART IV. STATE POLICE SERVICE**

### **§41. State Police Service**

Section 41.(A) Service Established. The state police service is established and includes all regularly commissioned full-time law enforcement officers employed by the Department of Public Safety and Corrections, office of state police, or its successor, who are graduates of the state police training academy course of instruction and are vested with full state police powers, as provided by law, and persons in training to become such officers.

(B) Implementation. The provisions of this Part IV shall become effective on January 1, 1991; however, prior to that date members of the State Police Commission shall be selected and take office and shall adopt rules and take actions necessary to implement this Part on January 1, 1991.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

### **§42. Classified and Unclassified Service**

Section 42.(A) Classified Service. The state police service is divided into the unclassified and the classified service. Persons not included in the unclassified service are in the classified service.

(B) Unclassified Service. The State Police Commission shall determine those positions which shall be in the unclassified service and may provide that any such position shall become classified.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

### **§43. State Police Commission**

Section 43.(A) Composition. The State Police Commission is established and shall be domiciled in the state capital. It shall be composed of seven members who are electors of this state, four of whom shall constitute a quorum. No more than one appointed member shall be from each congressional district. No appointed member shall concurrently serve on another board or commission whose purpose is similar to that of the State Police Commission.

(B) Appointment. The members shall be selected, as hereinafter provided, for terms of six years, after initial terms of one year, two years, three years, four years, five years, and six years for the appointed members, as designated by the governor, and six years for the elected member.

(C) Nominations. The presidents of Centenary College at Shreveport, Dillard University at New Orleans, Louisiana College at Pineville, Loyola University at New Orleans, Tulane University of Louisiana at New Orleans, and Xavier University at New Orleans, after giving consideration to representation of all groups, each shall nominate three persons. The governor shall appoint one member of the commission from the three persons nominated by each president. One member of the commission shall be elected by the classified state police officers of the state from their number as provided by law. A vacancy for any cause shall be filled by appointment or election in accordance with the procedure or law governing the original appointment or election, and from the same source. Within thirty days after a vacancy occurs, the president concerned shall submit the required nominations. Within thirty days thereafter, the governor shall make his appointment. If the governor fails to appoint within thirty days, the nominee whose name is first on the list of nominees automatically shall become a member of the commission. If any nominating authority fails to submit nominees in the time required, or if one of the named institutions ceases to exist, the governor shall make the appointment to the commission.

(D) Removal. An appointed member of the commission may be removed by the governor for cause after being served with written specifications of the charges against him and being afforded an opportunity for a public hearing thereon by the governor.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

### **§44. Director**

Section 44. The commission shall appoint a director and such personnel as shall be necessary to carry out its duties.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§45. Appointments; Promotions**

Section 45. Permanent appointments and promotions in the classified state police service shall be made only after certification by the director under a general system based upon merit, efficiency, fitness, and length of service, as ascertained by examination which, so far as practical, shall be competitive. The number to be certified shall not be less than three; however, if more than one vacancy is to be filled, the name of one additional person eligible for each vacancy may be certified. The commission shall adopt rules for the method of certifying persons eligible for appointment, promotion, reemployment, and reinstatement and shall provide for appointments defined as emergency and temporary appointments if certification is not required.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§46. Appeals**

Section 46.(A) Disciplinary Actions. No person who has gained permanent status in the classified state police service shall be subjected to disciplinary action except for cause expressed in writing. A classified state police officer subjected to such disciplinary action shall have the right of appeal to the commission. The burden of proof on appeal, as to the facts, shall be on the appointing authority.

(B) Discrimination. No classified state police officer shall be discriminated against because of his political or religious beliefs, sex, or race. A classified state police officer so discriminated against shall have the right of appeal to the commission. The burden of proof on appeal, as to the facts, shall be on the state police officer.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§47. Prohibitions Against Political Activities**

Section 47.(A) Party Membership; Elections. No member of the commission and no state police officer in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office except to seek election as the classified state police officer serving on the State Police Commission; or be a member of any national, state, or local committee of a political party or faction; make or solicit contributions for any political party, faction, or candidate; or take active part in the

management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he desires.

(B) Contributions. No person shall solicit contributions for political purposes from any classified state police officer or use or attempt to use his position to punish or coerce the political action of a classified state police officer.

(C) Political Activity Defined. As used in this Part, "political activity" means an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election. The support or opposition of a candidate seeking election as the classified state police officer member of the State Police Commission, issues involving bonded indebtedness, tax referenda, or constitutional amendments shall not be prohibited.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

## **§48. Rules; Investigations; Wages and Hours**

Section 48.(A) Rules. (1) Powers. The commission is vested with broad and general rulemaking and subpoena powers for the administration and regulation of the classified state police service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require an appointing authority to institute an employee training and safety program; and generally to accomplish the objectives and purposes of the merit system of state police service as herein established. It may make recommendations with respect to employee training and safety.

(2) Veterans. The director shall accord a five-point preference in original appointment to each person honorably discharged, or discharged under honorable conditions from the armed forces of the United States who served in the Vietnam Era from July 1, 1958 through May 7, 1975, except the period of July 1, 1958 through August 4, 1964, shall apply only to those who served within the area known as the Vietnam Theater, or in a peacetime campaign or expedition for which campaign badges are authorized. The director shall accord a ten-point preference in original appointment to each honorably discharged veteran who served either in peace or in war and who has one or more disabilities recognized as service-connected by the Veterans Administration; to the spouse of each veteran whose physical condition precludes his or her appointment to the state police service; to the unremarried widow of each deceased veteran who served in a war period, as defined above, or in a peacetime campaign or expedition; or to the unremarried widowed parent of any person who died in active wartime or peacetime service or who

suffered total and permanent disability in active wartime or peacetime service; or the divorced or separated parents of any person who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service. However, only one ten-point preference shall be allowed in the original appointment to any person enumerated above. If the ten-point preference is not used by the veteran, either because of the veteran's physical or mental incapacity which precludes his appointment to the classified state police service or because of his death, the preference shall be available to his spouse, unremarried widow, or eligible parents as defined above, in the order specified. However, any such preference may be given only to a person who has attained at least the minimum score required on each test and who has received at least the minimum rating required for eligibility.

(3) Layoffs; Preference Employees. When a position in the classified state police service is abolished, or must be vacated because of stoppage of work from lack of funds or other causes, preference employees (ex-members of the armed forces and their dependents as described in this Section) whose length of service and efficiency ratings are at least equal to those of other competing employees shall be retained in preference to all other competing employees. However, when any function of the state police is transferred to, or when the state police is replaced by, one or more other state agencies, every preference employee in classifications and performing functions transferred, or working in the state police, shall be transferred to the replacing state agency or agencies for employment in a position for which he is qualified before that state agency or agencies appoint additional employees for such positions from eligible lists. The appointing authority shall give the commission written notice of any proposed lay-off within a reasonable length of time before its effective date, and the commission shall issue orders relating thereto which it considers necessary to secure compliance with the rules. No rule, regulation, or practice of the commission, of any agency or department, or of any official of the state shall favor or discriminate against any applicant or employee because of his membership or nonmembership in any private organization; but this shall not prohibit the Department of Public Safety and Corrections, office of state police, or its successor, from contracting with an employee organization with respect to wages, hours, grievances, working conditions, or other conditions of employment in a manner not inconsistent with this constitution, law, or a valid rule or regulation of the commission.

(4) Effect. Rules adopted pursuant hereto shall have the effect of law and be published and made available to the public. The commission may impose penalties for violation of its rules by demotion in or suspension or discharge from position, with attendant loss of pay.

(B) Investigations. The commission may investigate violations of this Part and the rules, statutes, or ordinances adopted pursuant hereto.

(C) Wages and Hours. Any rule or determination affecting wages or hours shall have the effect of law and become effective only after approval by the governor and subject to

appropriation of sufficient funds by the legislature.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§49. Penalties**

Section 49. Willful violation of any provision of this Part shall be a misdemeanor punishable by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§50. Appeal**

Section 50. The State Police Commission shall have the exclusive power and authority to hear and decide all removal and disciplinary cases, with subpoena power and power to administer oaths. It may appoint a referee to take testimony, with subpoena power and power to administer oaths to witnesses. The decision of the commission shall be subject to review on any question of law or fact upon appeal to the court of appeal wherein the commission is located, upon application filed with the commission within thirty calendar days after its decision becomes final.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991.*

#### **§51. Appropriations**

Section 51. The legislature shall make adequate appropriations to the State Police Commission to enable it to implement this Part efficiently and effectively. The amount so appropriated shall not be subject to veto by the governor.

*Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991; Acts 1997, No. 1489, §5, approved Oct. 3, 1998, eff. Nov. 5, 1998.*

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