2016 Regular Session

HOUSE BILL NO. 149

BY REPRESENTATIVE TALBOT

ETHICS/CODE: Prohibits public servants from engaging in certain activities with public funds and assets

AN ACT

To enact R.S. 42:1113.2, relative to the Code of Governmental Ethics; to prohibit the use of public funds and assets for certain purposes; to provide for penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 42:1113.2 is hereby enacted to read as follows:

§1113.2. Prohibited uses of public funds and assets

A.(1) No public servant in a state agency shall use or obligate the funds or assets of his governmental entity to urge the passage or defeat of any matter pending before the legislature or any local governing authority.

(2) Nothing in this Subsection shall be construed to limit a public servant whose constitutional or statutory functions and duties include voting on matters pending before his agency from performing those functions and duties, including advocating for the passage or defeat of matters pending before his agency.

B. No public servant in a state agency shall use or obligate the funds or assets of his governmental entity for promoting, achieving, establishing, or restoring a favorable public image of or for advocacy of any public servant.

C.(1) Nothing in this Section shall be construed to prohibit the preparation, presentation, and dissemination of factual information or the preparation, presentation, and dissemination of information that is specifically authorized or required by state or federal law.

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(2) Nothing in this Section shall be construed to prohibit an elected official from stating his position on any matter pending before the legislature or any local governing authority.

D. In addition to any applicable penalties for violations of this Chapter, any agency head of any branch, department, agency, or entity who violates any provision of this Section and any public servant who, without the authorization of his administrative superior, violates any provision of this Section shall be assessed and personally liable for an amount equal to the funds or for the fair market value of the assets of his governmental entity used or obligated in violation of this Section.

E. If, at any time prior to a final determination as to whether a violation of this Section has occurred, the board is notified that a civil action has been commenced pursuant to R.S. 43:31 for conduct that is being pursued as a violation of this Section, the board shall stay any action pending before the board until a final order in the civil action is issued. The prescriptive period provided for in R.S. 42:1163 shall be suspended while such civil action is pending and shall resume when a final order of the court is issued. Unless the civil action is dismissed by the plaintiff, the final order of the court shall resolve all matters the public servant has pending before the board pursuant to this Section.

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 149 Engrossed 2016 Regular Session Talbot

Abstract: Prohibits a public servant in a state agency from using or obligating the funds or assets of his governmental entity to urge the passage or defeat of any matter pending before the legislature or any local governing authority. Prohibits a public servant in a state agency from using or obligating the funds or assets of his governmental entity for promoting, achieving, establishing, or restoring a favorable public image of, or for advocacy of any public servant.

Proposed law prohibits a public servant (elected official or public employee, including a member of a board or commission) in a state agency from using or obligating the funds or assets of his governmental entity to urge the passage or defeat of any matter pending before the legislature or any local governing authority. Proposed law specifically provides that nothing in proposed law shall be construed to limit the ability of a public servant's constitutional or statutory duties to include voting on matters pending before his agency

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from performing those functions and duties, including advocating for the passage or defeat of matters pending before his agency.

Proposed law prohibits a public servant in a state agency from using or obligating the funds or assets of his governmental entity for promoting, achieving, establishing, or restoring a favorable public image of, or for advocacy of any public servant.

Proposed law specifically provides that nothing in proposed law shall be construed to prohibit the preparation, presentation, and dissemination of factual information or the preparation, presentation, and dissemination of information that is specifically authorized or required by present law (state or federal law). Proposed law further specifies that nothing in proposed law shall be construed to prohibit an elected official from stating his position on any matter pending before the legislature or any local governing authority.

Present law provides that violations of present law (ethics code) are punishable by a fine of up to $10,000. Also provides that an elected official may be censured and that a public employee may be removed, suspended, demoted, or have his pay reduced. Proposed law makes penalties and provisions in present law (ethics code) applicable to proposed law. Proposed law additionally provides that any agency head of any branch, department, agency, or entity who violates any provision of proposed law and any public servant who, without the authorization of his administrative superior, violates any provision of proposed law shall be assessed and personally liable for an amount equal to the funds or for the fair market value of the assets of his governmental entity used or obligated in violation of proposed law.

Proposed law provides that if the board is notified, prior to a final determination of a violation of proposed law, that a civil action has been commenced pursuant to present law (R.S. 43:31) for conduct that is being pursued as a violation of proposed law, the board shall stay any action pending before the board until a final order in the civil action is issued. Specifies that the prescriptive period in present law (R.S. 42:1163) is suspended during such time and resumes when a final court order is issued. Provides that unless the civil action is dismissed by the plaintiff, the final order of the court shall resolve all matters the public servant has pending before the board pursuant to proposed law.

(Adds R.S. 42:1113.2)

Summary of Amendments Adopted by House

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

1. Change the phrase "public servant in state government" to "public servant in a state agency".

2. Remove the proposed prohibition on a public servant using or obligating the funds or assets of his governmental entity for promoting, achieving, establishing, or restoring a favorable public image of, or for advocacy of any agency.

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