

State and Local Government in Louisiana: An Overview 2012-2016 Term

CHAPTER 3 — LOCAL GOVERNMENT

Part C. Local Civil Service

As with all civil service, local civil service in Louisiana is aimed at improving the stability, experience, efficiency, and professionalism of government employees by protecting such employees from the sometimes tumultuous realities of electoral politics. This is done by the creation of local civil service systems. A civil service system consists of the employees of a governmental entity and its agencies, a governing board which sets policy for the system, a department established for the execution of the policies of the board, and a detailed employment plan.

As a rule, fire and police personnel are distinguished from other local government employees, usually participating in different civil service systems. The following discussion will therefore treat these two elements of local government employment separately, noting exceptions to the general rule.

Local Civil Service Systems Generally

The establishment of a civil service system for personnel other than fire and police in cities having a population of less than 400,000 and in parishes is generally a matter of local option. These authorities are permitted to adopt such a system in any manner provided by law. The legislature must establish such a system by law, but the law cannot become effective until approved by ordinance adopted by the parish or municipality. (Const. Art. X, §15) The legislature has provided by general law for a city civil service system for any city having a population over 100,000 (R.S. 33:2391 et seq.) and for certain other cities and parishes by local legislation. (Note: Const. Art. X, Part I specifies that it does not permit including employees included in the unclassified service in Section 2 thereof in a local civil service system. Relative to local government, this excludes employees of sheriffs, coroners, clerks of court, and district attorneys from the classified service.)

Matters Included in Constitution Article X, Part I

- Classified and Unclassified Service
- Civil Service Commission
- Appointments
- Political Activity
- Administration / Rules
- Department of Civil Service
- Funding

For any city with a population of greater than 400,000, (New Orleans was in this category prior to the 2010 census) a civil service system is established and provided for by the constitution (Part I of Article X). Article X, Section 1 provides that a civil service system in such a city includes all persons holding offices and positions of trust or employment employed by the city or by any instrumentality thereof. Thus, the civil service system of New Orleans includes police and fire personnel making it an exception to the general rule stated above. (The constitution

of 1974 authorized the city to hold an election within one year on the question of dividing the city civil service; the electors of the city voted against division.) (Note: Const. Art. X, Part I also applies to the state civil service system.)

In addition to authorizing most local governing authorities to adopt a civil service system, the constitution (Art. X, §14) additionally authorizes each city with a population of between 10,000 and 400,000, each parish, and each city-parish, subject to voter approval, to choose to have its civil service system governed by the provisions of the constitution which apply to civil service in New Orleans (i.e., Part I of Article X).

Classified and Unclassified Service (Const. Art. X, §2)

Just as in the case of the state civil service, a local civil service system created by (New Orleans) or through adoption of the provisions of Part I of Article X of the constitution includes the unclassified and the classified service. In such a civil service system, the following officers and employees are placed in the unclassified civil service by the constitution:

- Elected officials and persons appointed to fill vacancies in elective offices.
- The heads of each principal executive department appointed by the mayor or the governing authority of a city.
- City attorneys.
- Members of city boards, authorities, and commissions.
- One person holding a confidential position and one principal assistant or deputy to any officer, board, commission, or authority above, except city attorneys and civil service departments.
- Bona fide students of schools, colleges, and universities of the state employed by any parochial or municipal agency.
- Employees, deputies, and officers of police juries, school boards, assessors, and of all offices provided for in Article V of the constitution (judicial branch), except the offices of clerk of the municipal and traffic courts in New Orleans.
- Railroad employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal law.

The local civil service commission may add positions to the unclassified service and revoke those positions. Classified employees are covered by the civil service protection and prohibitions of the constitution and by regulations of the local civil service commission; unclassified employees are not.

Civil Service Commission (Const. Art. X, §4)

City or parish civil service commissions governed by Article X, Part I (created by or pursuant to Article X §1 or 14) are appointed by local governing authorities from nominees submitted by presidents of institutions of higher learning.

Appointments (Const. Art. X, §§7, 8, 12)

Permanent appointments and promotions in a local classified civil service subject to Part I of Article X may be made only after certification under a general system developed by the commission based upon merit, efficiency, fitness, and length of service. Competitive examinations are required, to the extent practicable. As in the case of state civil service, discrimination against classified employees is prohibited and a permanent classified employee may not be subjected to disciplinary action except for cause. The commission has exclusive power to hear and decide all removal and disciplinary cases, subject to review by the courts of appeal.

Political Activity (Const. Art. X, §9)

Members of civil service commissions and officers and employees in the classified service (if subject to Part I of Article X) are prohibited by the constitution from participating in political activity.

Administration / Rules (Const. Art. X, §10)

The constitution vests each local commission governed by Article X, Part I 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 employee training and safety programs; and generally to accomplish the objectives and purposes of the merit system of civil service.

Any rule or determination by a civil service commission under Part I of Article X affecting wages and hours of employment has the effect of law and becomes effective only after approval by the appropriate governing authority.

Department of Civil Service (Const. Art. X, §6)

For those local systems adopting the constitutional provisions, the constitution provides for a department of civil service, headed by a director of civil service (who is a classified employee) appointed by the commission. Each director shall appoint personnel and exercise powers and duties to the extent prescribed by the commission.

Funding (Const. Art. X, §13)

The constitution requires each local government subject to the Article X, Part I provisions to make adequate annual appropriations to enable its commission and department to implement efficiently and effectively the constitutional civil service provisions.

Fire and Police Civil Service

Part II of Article X of the constitution establishes a classified fire and police civil service system that applies to any municipality which has a population of between 13,000 and 400,000 and which operates regularly paid fire and police departments and to any parish or fire protection district which operates a regularly paid fire department. Policemen and firemen employed by any such entity are expressly excluded from any local civil service system governed by Part I of Article X.

Though this civil service system is established in the constitution, the provisions which govern it are continued from the constitution of 1921. The legislature, by law enacted by two-thirds vote of each house, may amend these provisions, but may not abolish the system or make it inapplicable to any such municipality, parish, or fire protection district. (Const. Art. X, §§16-20).

In addition to the constitutionally established fire and police civil service, statutes require and provide for civil service for paid firemen and policemen in any municipality with a population of not less than 7,000 and not more than 13,000 and in which there is a regularly paid fire or police department.

The issue of seniority continues to be very contentious. Presently promotions within this system are based on seniority within the department. The employees who pass the test for a particular promotion are eligible for promotion in order of the total length of time in the departmental service. Proposals for changing this have included considering only seniority in the current position and schemes to more thoroughly evaluate and consider qualifications. In recent years, the legislature has amended civil service provisions to remove certain positions from the classified service to permit greater latitude to appointing authorities in appointing and removing personnel.