

CODE OF GOVERNMENTAL ETHICS

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CHAPTER 15. CODE OF GOVERNMENTAL ETHICS

PART I. GENERAL PROVISIONS

§1101. Declaration of policy

A. Whereas the people of the state of Louisiana have in Article X, Section 21 of the Louisiana Constitution mandated that the legislature enact a code of ethics for officials and employees of this state and its political subdivisions, the legislature does hereby enact a Code of Governmental Ethics.

B. It is essential to the proper operation of democratic government that elected officials and public employees be independent and impartial; that governmental decisions and policy be made in the proper channel of the governmental structure; that public office and employment not be used for private gain other than the remuneration provided by law; and that there be public confidence in the integrity of government. The attainment of one or more of these ends is impaired when a conflict exists between the private interests of an elected official or a public employee and his duties as such. The public interest, therefore, requires that the law protect against such conflicts of interest and that it establish appropriate ethical standards with respect to the conduct of elected officials and public employees without creating unnecessary barriers to public service. It is the purpose of this Chapter to implement these policies and objectives.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1102. Definitions

Unless the context clearly indicates otherwise, the following words and terms, when used in this Chapter, shall have the following meanings:

(1) "Action of a governmental entity" means any action on the part of a governmental entity or agency thereof including, but not limited to:

- (a) Any decision, determination, finding, ruling, or order, including the judgment or verdict of a court or a quasi-judicial board, in which the governmental entity or any of its agencies has an interest, except in such matters involving criminal prosecutions.
- (b) Any grant, payment, award, license, contract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act with respect thereto; and in which the governmental entity or any of its agencies has an interest, except in matters involving criminal prosecutions.
- (c) As the term relates to a public servant of the state, any disposition of any matter by the legislature or any committee thereof; and as the term relates to a public servant of a political subdivision, any disposition of any matter by the governing authority or any committee thereof.
- (2)(a) "Agency" means a department, office, division, agency, commission, board, committee, or other organizational unit of a governmental entity. For purposes of this Chapter, "agency of the public servant" and "his agency" when used in reference to the agency of a public servant shall mean:
- (i) For public servants in the twenty principal departments of the executive branch of state government, the office in which such public servant carries out his primary responsibilities; except that in the case of the secretary, deputy secretary, or undersecretary of any such department and officials carrying out the responsibilities of such department officers it shall mean the department in which he serves; and except that in the case of public servants who are members or employees of a board or commission or who provide staff assistance to a board or commission, it shall mean the board or commission.
- (ii) For the governor and lieutenant governor, it shall mean the executive branch of state government.
- (iii) For public servants in the office of the governor or the lieutenant governor it shall mean their respective offices.
- (iv) For public servants in the legislative branch of state government, it shall mean the agency or house of the legislature by which a public employee is employed and the legislative branch in the case of legislators.
- (v) For public employees, except judges, of the supreme court, courts of appeal, district courts, and other courts authorized by Article V of the Constitution of 1974, it shall mean the court in which the public employee serves and any other court in which decisions of that court may be reviewed.
- (vi) For public servants of political subdivisions, it shall mean the agency in which the public servant serves, except that for members of any governing authority and for the elected or appointed chief executive of a governmental entity, it shall mean the governmental entity. Public servants of political subdivisions shall include, but shall not be limited to, elected officials and public employees of municipalities, parishes, and other political subdivisions; sheriffs and their employees; district attorneys and their employees; coroners and their employees; and clerks of court and their employees.
- (b) The board may adopt rules and regulations to provide for the application of this definition.
- (3) "Agency head" means the chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.
- (4) "Assist" means to act in such a way as to help, advise, furnish information to, or aid a person with the intent to assist such person.
- (5) "Board" means the Board of Ethics.
- (6) *Repealed by Acts 1996, 1st Ex. Sess., No. 64, §10, eff. Jan. 1, 1997.*
- (7) "Compensation" means any thing of economic value which is paid, loaned, granted, given, donated, or transferred or to be paid, loaned, granted, given, donated, or transferred for or in consideration of personal services to any person.
- (8) "Controlling interest" means any ownership in any legal entity or beneficial interest in a trust, held by or on behalf of an individual or a member of his immediate family, either individually or collectively, which exceeds twenty-five percent of that legal entity.
- (9) "Elected official" means any person holding an office in a governmental entity which is filled by the vote of the appropriate electorate. It shall also include any person appointed to fill a vacancy in such offices.

(10) "Ethics body" means the Board of Ethics.

(11) "Governing authority" means the body which exercises the legislative functions of a political subdivision.

(12) "Governmental entity" means the state or any political subdivision which employs the public employee or employed the former public employee or to which the elected official is elected, as the case may be.

(13) "Immediate family" as the term relates to a public servant means his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse.

(14) "Legislator" means any person holding office in the Senate or the House of Representatives of the Louisiana Legislature which is filled by the vote of the appropriate electorate.

(15) "Participate" means to take part in or to have or share responsibility for action of a governmental entity or a proceeding, personally, as a public servant of the governmental entity, through approval, disapproval, decision, recommendation, the rendering of advice, investigation, or the failure to act or perform a duty.

(16) "Person" means an individual or legal entity other than a governmental entity, or an agency thereof.

(17) "Political subdivision" means any unit of local government, including a special district, authorized by law to perform governmental functions.

(18) "Public employee" means anyone, whether compensated or not, who is:

(a) An administrative officer or official of a governmental entity who is not filling an elective office.

(b) Appointed by any elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the governmental entity or an agency thereof, either as a member of an agency, or as an employee thereof.

(c) Engaged in the performance of a governmental function.

(d) Under the supervision or authority of an elected official or another employee of the governmental entity.

A public employee shall be in such status on days on which he performs no services as well as days on which he performs services. The termination of any particular term of employment of a public employee shall take effect on the day the termination is clearly evidenced.

(19) "Public servant" means a public employee or an elected official.

(19.1) "Regulatory employee" means a public employee who performs the function of regulating, monitoring, or enforcing regulations of any agency.

(20) "Responsibility" in connection with a transaction involving a governmental entity means the direct administration or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through or with others or subordinates, to effectively direct action of the governmental entity, as the case may be, in respect to such transaction.

(20.1) "Service" means the performance of work, duties, or responsibilities, or the leasing, rental, or sale of movable or immovable property.

(21) "Substantial economic interest" means an economic interest which is of greater benefit to the public servant or other person than to a general class or group of persons, except:

(a) The interest that the public servant has in his position, office, rank, salary, per diem, or other matter arising solely from his public employment or office.

(b) The interest that a person has as a member of the general public.

(22)(a) "Thing of economic value" means money or any other thing having economic value, except promotional items having no substantial resale value; food, drink, or refreshments consumed by a public servant, including reasonable transportation and entertainment incidental thereto, while the personal guest of some person, and, with reference to legislators and employees in the legislative branch of state government only, reasonable transportation when organized primarily for educational or informational purposes, including food and drink incidental thereto, and includes but is not limited to:

(i) Any loan, except a bona fide loan made by a duly licensed lending institution at the normal rate of interest, any property interest, interest in a contract, merchandise, service, and any employment or other arrangement involving a right to compensation.

(ii) Any option to obtain a thing of economic value, irrespective of the conditions to the exercise of such option.

(iii) Any promise or undertaking for the present or future delivery or procurement of a thing of economic value.

(b) In the case of an option, promise, or undertaking, the time of receipt of the thing of economic value shall be deemed to be, respectively, the time the right to the option becomes fixed, regardless of the conditions to its exercise, and the time when the promise or undertaking is made, regardless of the conditions to its performance.

(c) Things of economic value shall not include salary and related benefits of the public employee due to his public employment or salary and other emoluments of the office held by the elected official. Salary and related benefits of public employees of higher education institutions, boards, or systems shall include any supplementary compensation, use of property, or other benefits provided to such employees from funds or property accruing to the benefit of the institution, board, or system, as approved by the appropriate policy or management board, from an alumni organization recognized by the management board of a college or university within the state or from a foundation organized by the alumni or other supportive individuals of a college or university within the state the charter of which specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner.

(d)(i) With reference to legislators and employees in the legislative branch of state government only, and for purposes of this Section, "reasonable transportation", when organized primarily for educational or for informational purposes, including on-site inspections, shall include transportation to any point within the boundaries of this state, including the territorial waters thereof, and to any offshore structure located on the outer continental shelf seaward of such territorial waters and offshore of Louisiana. With reference to employees in the legislative branch of state government, such transportation shall only be for official legislative purposes and shall have prior approval from the presiding officer of the respective house wherein such legislative employee is employed.

(ii) With references to legislators only, "reasonable transportation", when organized primarily for entertainment purposes incidental to food, drink, or refreshments, shall include transportation to any point within this state that is within a fifty-mile radius of the perimeter of the legislator's district, or within a fifty-mile radius of the perimeter of the parish wherein the state capitol is located if the legislator is conducting official business in said parish.

(23) "Transaction involving the governmental entity" means any proceeding, application, submission, request for a ruling or other determination, contract, claim, case, or other such particular matter which the public servant or former public servant of the governmental entity in question knows or should know:

(a) Is, or will be, the subject of action by the governmental entity.

(b) Is one to which the governmental entity is or will be a party.

(c) Is one in which the governmental entity has a direct interest. A transaction involving the agency of a governmental entity shall have the same meaning with respect to the agency.

Acts 1979, No. 443, §1, eff. April 1, 1980. Amended by Acts 1980, No. 838, §1; Acts 1983, No. 403, §1; Acts 1985, No. 491, §1; Acts 1986, No. 359, §1; Acts 1988, No. 144, §1; Acts 1990, No. 687, §1, eff. July 20, 1990; Acts 1996, 1st Ex. Sess., No. 64, §§6, 10, eff. Jan. 1, 1997; Acts 1996, 1st Ex. Sess., No. 66, §5, eff. Jan. 1, 1997; Acts 1998, 1st Ex. Sess., No. 163, §1; Acts 1999, No. 418, §1; Acts 1999, No. 851, §1; Acts 1999, No. 1204, §1, eff. Jan. 1, 2000.

PART II. ETHICAL STANDARDS FOR PUBLIC SERVANTS

§1111. Payment from nonpublic sources

A.(1) Payments for services to the governmental entity. No public servant shall receive anything of economic value, other than compensation and benefits from the governmental entity to which he is duly entitled, for the performance of the duties and

responsibilities of his office or position; however, supplementary compensation or benefits provided to an employee of a public higher education institution, board, or system from funds or property accruing to the benefit of the institution, board, or system as approved by the appropriate policy or management board, through an alumni organization recognized by the management board of a college or university within the state or through a foundation organized by the alumni or other supportive individuals of a college or university within the state the charter of which specifically provides that the purpose of the foundation is to aid said college or university in a philanthropic manner shall be deemed for purposes of this Subsection as compensation and benefits from the government to which he is duly entitled.

(2) Any supplementary compensation or benefits provided to the commissioner of higher education or to an employee of the Board of Regents from funds or property accruing to the benefit of the board as approved by appropriate policy through a foundation organized to support higher education, including the Board of Regents, the charter of which specifically provides that the purpose of the foundation is to aid higher education in a philanthropic manner shall be deemed for purposes of this Subsection as compensation and benefits from the government to which he is duly entitled.

B. Finder's fees. No public servant shall receive any thing of economic value from a person to whom the public servant has directed business of the governmental entity.

C. Payments for nonpublic service.

(1) No public servant shall receive any thing of economic value for any service, the subject matter of which:

(a) Is devoted substantially to the responsibilities, programs, or operations of the agency of the public servant and in which the public servant has participated; or

(b) Draws substantially upon official data or ideas which have not become part of the body of public information.

(2) No public servant and no legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during his public service unless such services are:

(a) Bona fide and actually performed by the public servant or by the entity;

(b) Not within the course of his official duties;

(c) Not prohibited by R.S. 42:1112 or by applicable laws or regulations governing nonpublic employment for such public servant; and

(d) Neither performed for nor compensated by any person from whom such public servant would be prohibited by R.S. 42:1115(A)(1) or (B) from receiving a gift.

(3)(a) Notwithstanding any other provision of the law to the contrary, and specifically the provisions of this Section, an employee of the office of the clerk of court may research public records, prepare chains of title, or perform any other title abstract related work, for compensation from nonpublic sources, with the approval of the clerk of court, provided such services are not performed during the employee's assigned working hours, and does not interfere with the performance of his assigned duties.

(b) No clerk of court shall receive any compensation or any portion of compensation received by any employee from nonpublic sources for the performance of any services related to the preparation of chains of title or any other title abstract related work approved by the clerk of court to be done by an employee during his nonworking hours.

(c) A willful violation of this Paragraph shall subject the clerk of court to a conviction of a misdemeanor and a fine of not less than five hundred dollars nor more than two thousand dollars.

(d) The clerk of court of each parish in conjunction with the parish governing authority shall promulgate rules and regulations for the use of its facilities, records, and equipment by all abstractors, including deputy clerks, regarding availability, costs, and procedures.

D. Payments for future services. No public servant shall receive, directly or indirectly, any thing of economic value during the term of his public service in consideration of personal services to be rendered to or for any person subsequent to the term of such public service; however, a public servant may enter into a contract for prospective employment during the term of his public service unless otherwise prohibited by R.S. 42:1116.

E. Payments for rendering assistance to certain persons.

(1) No public servant, and no legal entity of which such public servant is an officer, director, trustee, partner, or employee, or in which such public servant has a substantial economic interest, shall receive or agree to receive any thing of economic value for assisting a person in a transaction, or in an appearance in connection with a transaction, with the agency of such public servant.

(2)(a) No elected official of a governmental entity shall receive or agree to receive any thing of economic value for assisting a person in a transaction or in an appearance in connection with a transaction with the governmental entity or its officials or agencies, unless he shall file a sworn written statement with the board prior to or at least ten days after initial assistance is rendered.

(b) The contents of the sworn written statement required by this Subsection shall be prescribed by the board and such statement shall be a public record.

(c) The board shall review all sworn statements filed in accordance with this Subsection. If the board determines that any such sworn statement is deficient or may suggest a possible violation of this Part, it shall, within ten days of the receipt of such statement, notify the elected official filing the statement of its findings. Such notification shall be deemed confidential and privileged and shall only be made public in connection with a public hearing by the board for an alleged violation of this Part where such would be relevant to the alleged violation for which the elected official is being investigated.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1983, No. 403, §1; Acts 1983, No. 697, §1; Acts 1986, No. 359, §1; Acts 1992, No. 1123, §1; Acts 1995, No. 74, §1, eff. June 12, 1995.

§1112. Participation in certain transactions involving the governmental entity

A. No public servant, except as provided in R.S. 42:1120, shall participate in a transaction in which he has a personal substantial economic interest of which he may be reasonably expected to know involving the governmental entity.

B. No public servant, except as provided in R.S. 42:1120, shall participate in a transaction involving the governmental entity in which, to his actual knowledge, any of the following persons has a substantial economic interest:

(1) Any member of his immediate family.

(2) Any person in which he has a substantial economic interest of which he may reasonably be expected to know.

(3) Any person of which he is an officer, director, trustee, partner, or employee.

(4) Any person with whom he is negotiating or has an arrangement concerning prospective employment.

(5) Any person who is a party to an existing contract with such public servant, or with any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, or who owes any thing of economic value to such public servant, or to any legal entity in which the public servant exercises control or owns an interest in excess of twenty-five percent, and who by reason thereof is in a position to affect directly the economic interests of such public servant.

C. Every public employee, excluding an appointed member of any board or commission, shall disqualify himself from participating in a transaction involving the governmental entity when a violation of this Part would result. The procedures for such disqualification shall be established by regulations issued pursuant to R.S. 42:1134(1).

D. No appointed member of any board or commission, except as provided in R.S. 42:1120.1 and R.S. 42:1120.2, shall participate or be interested in any transaction involving the agency when a violation of this Part would result.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1983, No. 697, §1; Acts 1985, No. 426, §2; Acts 1987, No. 370, §1.

§1113. Prohibited contractual arrangements

A. No public servant, excluding any legislator and any appointed member of any board or commission and any member of a governing authority of a parish with a population of ten thousand or less, or member of such a public servant's immediate family, or legal entity in which he has a controlling interest shall bid on or enter into any contract, subcontract, or other transaction that is under the supervision or jurisdiction of the agency of such public servant.

B. Other than a legislator, no appointed member of any board or commission, member of his immediate family, or legal entity in which he has a substantial economic interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction which is under the supervision or jurisdiction of the agency of such appointed member.

C. No legislator, member of his immediate family, or legal entity in which he has a controlling interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction involving the legislator's agency.

D.(1)(a) No legislator or person who has been certified by the secretary of state as elected to the legislature, or spouse of a legislator or person who has been certified as elected to the legislature, nor any corporation, partnership, or other legal entity in which the legislator or person who has been certified by the secretary of state as elected to the legislature or the spouse of a legislator or spouse of a person who has been certified by the secretary of state as elected to the legislature owns any interest in, except publicly traded corporations, shall enter into any contract or subcontract with any branch, agency, department, or institution of state government or with the Louisiana Insurance Guaranty Association, the Louisiana Health Insurance Guaranty Association, or any other quasi public entity created in law unless the contract or subcontract is awarded by competitive bidding after being advertised and awarded in accordance with Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950 or is competitively negotiated through a request for proposal process or any similar competitive selection process in accordance with Chapters 16 or 17 of Title 39 of the Louisiana Revised Statutes of 1950.

(b)(i) For the purposes of this Section, a provider agreement entered into with the Department of Health and Hospitals under the state medical assistance program shall not be considered a contract or subcontract.

(ii) For the purposes of this Section, a foster parent provider agreement or a child care provider agreement entered into with the Department of Social Services shall not be considered a contract or subcontract.

(2) The provisions of this Subsection shall not prohibit the following:

(a) Completion of any contract or subcontract otherwise prohibited by this Subsection which was entered into prior to initial election to the legislature; however, no such contract or subcontract shall be renewed.

(b) Completion of any contract or subcontract otherwise prohibited by this Subsection which was entered into prior to July 1, 1995; however, no such contract or subcontract shall be renewed.

(c) Contracts for employment in a professional educational capacity in an elementary or secondary school or other educational institution.

(d) Contracts of sale pursuant to the expropriation of immovable property by any branch, agency, department, or institution of state government.

(e) Contracts of employment of a physician with the state or the charity hospitals of the state.

(f) Donation of professional veterinary services or the donation of any goods and services related to the provision of such veterinary services.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1984, No. 830, §1; Acts 1987, No. 730, §1; Acts 1995, No. 1156, §1; Acts 1997, No. 1279, §1, eff. July 15, 1997; Acts 1998, 1st Ex. Sess., No. 119, §1, eff. May 5, 1998; Acts 2003, No. 1002, §1, eff. July 2, 2003.

§1114. Financial disclosure

A. Other than a legislator, each public servant and each member of his immediate family who derives any thing of economic value, directly, through any transaction involving the agency of such public servant or who derives any thing of economic value of which he may be reasonably expected to know through a person which (1) is regulated by the agency of such public servant, or (2) has bid on or entered into or is in any way financially interested in any contract, subcontract, or any transaction under the supervision or jurisdiction of the agency of such public servant shall disclose the following:

(1) The amount of income or value of any thing of economic value derived;

(2) The nature of the business activity;

(3) Name and address, and relationship to the public servant, if applicable; and

(4) The name and business address of the legal entity, if applicable.

B. Each legislator and each member of his immediate family who derives anything of economic value, directly, through any transaction involving the legislator's agency or who derives anything of economic value of which he may be reasonably expected to know through a person which has bid on or entered into or is in any way financially interested in any contract, subcontract, or any transaction involving the legislator's agency shall disclose the following:

(1) The amount of income or value of anything of economic value derived;

(2) The nature of the business activity;

(3) The name and address, and relationship to the legislator, if applicable; and

(4) The name and business address of the legal entity, if applicable.

C.(1) Other than a legislator, each elected official, his spouse, and any business enterprise in which he has a substantial economic interest, who derives anything of economic value through a contract or other subcontract from the state or any political subdivision shall disclose the following:

(a) The amount of income or value of anything of economic value derived;

(b) The nature of the business activity;

(c) The name and address, and relationship to the elected official, if applicable; and

(d) The name and business address of the political subdivision, if applicable.

(2) For the purposes of this Subsection, a "business enterprise", shall be included in the disclosure statement only if the elected official and/or his spouse owns at least ten percent of such enterprise.

D. Repealed by Acts 1999, No. 2, §3, April 22, 1999.

E. The disclosure statements required in this Section shall be filed each year with the appropriate ethics body by May first and shall include such information for the previous calendar year. Such statements shall be a matter of public record.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1990, No. 1084, §1; Acts 1997, No. 1279, §1, eff. July 15, 1997; Acts 1999, No. 2, §3, eff. April 22, 1999.

§1114.1. Financial disclosure; legislators

A. Each member of the legislature shall file a report with the clerical officer of the house to which he belongs, by July first of each year of his or her term of office, showing the following:

(1) Any and all income exceeding two hundred fifty dollars received during the immediately preceding calendar year by such member, the spouse of such member, or any business enterprise in which such member and/or his spouse owns at least ten percent, which is received from any of the following:

(a) The state or any political subdivision as defined in Article VI of the Constitution of Louisiana.

(b) Services performed for or in connection with a gaming interest as defined in R.S. 18:1505.2(L)(3)(a).

(2) A certification that such member has filed his or her federal and state income tax return, or has filed for an extension of time for filing such tax return.

(3) Notwithstanding the provisions of this Subsection, any legislator who receives Medicaid funds may indicate on his financial disclosure report that information relative to ownership, financial interest and income derived therefrom, may be accessed through files on record with the Department of Health and Hospitals, Bureau of Health Standards.

B.(1) For purposes of this Section, "income" includes:

(a) Any remuneration received under any verbal or written contract of employment.

(b) Fees received for professional services, less expenses paid to third parties.

(c) With respect to the sale or lease of immovable property, merchandise, or equipment, the net income, prior to taxation, received from the sale or lease of such immovable property, merchandise, or equipment.

(2) For purposes of this Section, "income" shall not include remuneration from the legislature, salary from the full-time employment of the member's spouse, salary of the member's spouse when such spouse is an elected official, and benefits from a statewide public retirement system, and such amounts need not be reported.

C. The secretary of the Senate and the clerk of the House of Representatives jointly shall prescribe the form for filing of reports by members of the legislature, as required by this Section. On or before June first of each year, the secretary shall notify each member of the Senate and the clerk shall notify each member of the House of Representatives that the report is due on July first. On or before July fifteenth, the secretary of the Senate and the clerk of the House of Representatives shall transmit to the Board of Ethics copies of all disclosure reports filed with them, respectively, and shall notify the Board of Ethics in writing of any members who have not filed such reports. Reports transmitted by the secretary of the Senate and the clerk of the House of Representatives shall be deemed to have been filed with the Board of Ethics by the member, as of the date of filing with such clerical officer.

D. Failure to file a report, failure to timely file a report, failure to disclose required information, or filing a false report shall subject a member to penalties as provided by this Chapter, and also shall constitute contempt of the house to which the member belongs.

Acts 1999, No. 2, §2, eff. April 22, 1999; Acts 2001, No. 328, §1.

§1115. Gifts

A. No public servant shall solicit or accept, directly or indirectly, any thing of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person, if such public servant knows or reasonably should know that such person:

(1) Has or is seeking to obtain contractual or other business or financial relationships with the public servant's agency, or

(2) Is seeking, for compensation, to influence the passage or defeat of legislation by the public servant's agency.

B. No public employee shall solicit or accept, directly or indirectly, anything of economic value as a gift or gratuity from any person or from any officer, director, agent, or employee of such person, if such public employee knows or reasonably should know that such person:

(1) Conducts operations or activities which are regulated by the public employee's agency.

(2) Has substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duty.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1983, No. 403, §1; Acts 1987, No. 730, §1.

§1116. Abuse of office

A. No public servant shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to provide himself, any other public servant, or other person with any thing of economic value. This Subsection shall not be construed to limit that authority authorized by law, statute, ordinance, or legislative rule in carrying out official duties.

B. No public servant shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to engage in political activity. For the purposes of this Subsection, "political activity" means an effort to support or oppose the election of a candidate for political office in an election. This Subsection shall not be construed to limit that authority authorized by law, statute, ordinance, or legislative rule in carrying out official duties.

C. No regulatory employee shall participate in any way in the sale of goods or services to a person regulated by his public agency, or to any officer, director, agent, or employee of such person, if a member of the immediate family of the regulatory employee, or any business enterprise in which such regulatory employee or member of his immediate family owns at least twenty-five percent, receives or will receive a thing of economic value by virtue of the sale.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1997, No. 338, §1; Acts 1999, No. 418, §1.

§1116.1. *Repealed by Acts 2003, No. 1292, §1.*

NOTE: *Statute requiring elected officials to submit to random drug testing violated search and seizure clause and therefore is unconstitutional; no special need which would justify departure from Fourth Amendment's requirement of individualized suspicion for search. O'Neill v. La., E.D. La. 1998, 61 F.Supp.2d 485, affirmed 197 F.3d 1169, cert. denied 120 S.Ct. 2740, 530 U.S. 1274, 147 L.Ed.2d 1005.*

§1117. Illegal payments

No public servant or other person shall give, pay, loan, transfer, or deliver or offer to give, pay, loan, transfer, or deliver, directly or indirectly, to any public servant or other person any thing of economic value which such public servant or other person would be prohibited from receiving by any provision of this Part.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1118. Influencing action by legislature or governing authority

No public servant shall solicit or receive any thing of economic value, directly or indirectly, for, or to be used by him or a member of his immediate family principally to aid in, (1) the accomplishment of the passage or defeat of any matter affecting his agency by the legislature, if his agency is a state agency, or by the governing authority, if his agency is an agency of a political subdivision, or (2) the influencing, directly or indirectly, of the passage or defeat of any matter affecting his agency by the legislature, if his agency is a state agency, or by the governing authority, if his agency is an agency of a political subdivision.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1118.1. Studies or position papers on public policy

A. If not otherwise prohibited by the code of ethics, any public employee of the executive, judicial, or legislative branch of state government or any local governmental subdivision who contracts with a person or governmental entity to provide political position papers, economic studies, or policy statements relative to public policy concerning any rule, regulation, or legislation proposed, passed, or adopted by the state or any of its political subdivisions, or any entity receiving public funds, shall disclose the name and address of the person or governmental entity engaging his services, the amount of the contract, and the nature of the business or relationship.

B. The disclosure statements required by this Section shall be filed with the appropriate ethics body for public employees prior to the publication, dissemination, or public release of such paper, study, or statement.

Acts 1992, No. 927, §1.

§1119. Nepotism

A. No member of the immediate family of an agency head shall be employed in his agency.

B.(1) No member of the immediate family of a member of a governing authority or the chief executive of a governmental entity shall be employed by the governmental entity.

(2) Notwithstanding the provisions of Paragraph (B)(1):

(a)(i) Any local school board may employ any member of the immediate family of any board member or of the superintendent as a classroom teacher provided that such family member is certified to teach. Any school board member or superintendent whose immediate family member is employed by the school board shall recuse himself from any decision involving the promotion or assignment of teaching location of such employee.

(ii) Any local school board with a student enrollment population of four thousand nine hundred fifty or less may employ any member of the immediate family of any board member as a school electrician provided that such family member has at least twenty years of experience as an electrician. Any school board member whose immediate family member is employed by the school board shall recuse himself from any decision involving the promotion or assignment of such electrician.

(iii) In addition, within thirty days after the beginning of each school year, any school board member or superintendent whose immediate family member is employed by the school board shall file a disclosure statement with the Board of Ethics stating the facts of such employment. Any person who fails to timely file a disclosure statement under this Item may be assessed a late fee of fifty dollars per day, not to exceed one thousand five hundred dollars, subject to the provisions of R.S. 42:1157.2.

(b)(i) Any hospital service district with a population of one hundred thousand persons or less as of the most recent federal decennial census or hospital public trust authority located in such a district may employ as a health care provider a licensed physician, a registered nurse, or an allied health professional who is a member of the immediate family of any district board, authority, or parish governing authority member or of the chief executive of the district or authority, provided that such family member is the only qualified applicant who has applied for the position after it has been advertised for at least thirty days in the official journal of the parish and in all newspapers of general circulation in the parish where the hospital is located. The chief executive and any member of a board of a hospital service district or hospital public trust authority which employs such physician, registered nurse, or allied health professional shall recuse himself from any decision involving the promotion, discipline, discharge, or assignment of any such employee who is a member of his immediate family.

(ii) In addition, no later than January thirtieth of each year, any chief executive and any member of a board of a hospital service district or hospital public trust authority whose immediate family member is employed by the hospital service district or hospital public trust authority shall file a disclosure statement with the Board of Ethics stating the facts of such employment. Any person who fails to timely file a disclosure statement under this Item may be assessed a late fee of fifty dollars per day, not to exceed one thousand five hundred dollars, subject to the provisions of R.S. 42:1157.2.

C.(1) Any person serving in public employment on the effective date of this Section, whose employment is in violation of this Section, may continue in such employment and the provisions of this Section shall not be construed to hinder, alter, or in any way affect normal promotional advancements in public employment for such employee.

(2) The provisions of this Section shall not prohibit the continued employment of any public employee nor shall it be construed to hinder, alter, or in any way affect normal promotional advancements for such public employee where a member of public employees' immediate family becomes the agency head of such public employee's agency, provided that such public employee has been employed in the agency for a period of at least one year prior to the member of the public employee's immediate family becoming the agency head.

(3) The provisions of the Section shall not apply to pilots appointed by the governor pursuant to R.S. 34:943, 34:992, 34:1043, and 34:1072.

(4) The provisions of this Section shall not apply to the hiring of immediate family members of members of a governing authority of a municipality with less than two thousand population and which owns an electrical or gas distribution system. Any member of the governing authority which employs an immediate family member shall recuse himself from any decision involving the promotion, discipline, discharge, or assignment of work of his immediate family member. However, the provisions of this Paragraph shall only apply when, after proper advertisement, there is no other resident of the municipality who is qualified and has applied for the position of employment.

(5) The provisions of this Section shall not be construed to prohibit the reemployment of a retiree whose employment was allowed under the provisions of this Section on the date of his retirement. Any such reemployment shall be in compliance with all other applicable laws.

(6) The provisions of this Section shall not apply to the employment of a volunteer firefighter or to any decision regarding the employment of a volunteer firefighter by an agency head, a chief executive of a governmental entity, or a member of a governing authority. For purposes of this Paragraph, "volunteer firefighter" shall mean a member of a volunteer fire department who participates

in fire and rescue functions and who receives no remuneration for his services, and "decision regarding employment" shall include any decision involving the employment, promotion, discipline, discharge, or assignment of the firefighter.

D. A willful violation of this Section shall subject the agency head, member of the governing authority, or chief executive, as the case may be, the public employee having authority to hire and fire the employee, the immediate supervisor of the employee, and such employee, to disciplinary action and penalties provided by this Chapter.

Acts 1979, No. 443, §1, eff. April 1, 1980. Amended by Acts 1982, No. 640, §1; Acts 1992, No. 598, §1; Acts 1995, No. 196, §1, eff. June 14, 1995; Acts 1997, No. 329, §1; Acts 1997, No. 342, §1, eff. June 20, 1997; Acts 1999, No. 1349, §2, eff. July 12, 1999; Acts 2003, No. 913, §1, eff. July 1, 2003; Acts 2003, No. 914, §1, eff. July 1, 2003; Acts 2003, No. 990, §1, eff. July 2, 2003; Acts 2003, No. 997, §1, eff. July 2, 2003.

NOTE: *See Acts 2003, No. 990, §3 relative to retroactivity of Act to Jan. 1, 2003.*

§1120. Recusal from voting

A. If any elected official, in the discharge of a duty or responsibility of his office or position, would be required to vote on a matter which vote would be a violation of R.S. 42:1112, he shall recuse himself from voting. Notwithstanding the foregoing, an elected official shall not be required to recuse himself if he prepares and files the statement required by this Section as provided herein. In such case, the elected official shall prepare in writing a statement describing the matter in question, the nature of the conflict or potential conflict, and the reasons why, despite the conflict, the elected official is able to cast a vote that is fair, objective, and in the public interest. Such statement shall be filed within three days of the vote with the chief clerical officer of the respective house of the legislature, of the legislative committee, of the governing authority, or of any other body in which the vote is taken, as the case may be, who shall cause the statement to be recorded in the official journal, minutes, or other official record of the body. In addition, the elected official shall be required to file a copy of such statement as it appears in such published or recorded official journal, minutes, or record, with the appropriate ethics body.

B. This Section shall not be applicable when the elected official is the sole decisionmaker in the discharge of the particular duty or responsibility of his office or position.

C. This Section shall not extend to any act of participation other than voting.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1988, No. 880, §1.

§1120.1. Recusal from voting; Board of Commissioners of the Port of New Orleans

If any member of the Board of Commissioners of the Port of New Orleans, in the discharge of a duty or responsibility of his office or position, would be required to vote on a matter which vote would be a violation of R.S. 42:1112 or 1113(B), he shall recuse himself from voting.

Acts 1985, No. 426, §2.

§1120.2. Recusal from voting; Housing Authority Members

If a tenant of a housing authority who also serves as a member of the board of commissioners of that housing authority, in the discharge of a duty or responsibility of his office or position, would be required to vote on a matter which vote would be a violation of R.S. 42:1112, he shall recuse himself from voting.

Acts 1987, No. 370, §1.

§1121. Assistance to certain persons after termination of public service

A.(1) No former agency head or elected official shall, for a period of two years following the termination of his public service as the head of such agency or as an elected public official serving in such agency, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction, involving that agency or render any service on a contractual basis to or for such agency.

(2) No former member of a board or commission shall, for a period of two years following the termination of his public service on such board or commission, contract with, be employed in any capacity by, or be appointed to any position by that board or commission.

B. General rule for other public employees. No former public employee shall, for a period of two years following the termination of his public employment, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such former public employee participated at any time during his public employment and involving the governmental entity by which he was formerly employed, or for a period of two years following termination of his public employment, render, on a contractual basis to or for the agency with which he was formerly employed, any service which such former public employee had rendered to the agency during the term of his public employment.

C. No legal entity in which a former public servant is an officer, director, trustee, partner, or employee shall, for a period of two years following the termination of his public service, assist another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which such public servant at any time participated during his public service and involving the agency by which he was formerly employed or in which he formerly held office.

D. No former public servant shall share in any compensation received by another person for assistance which such former public servant is prohibited from rendering by this Section.

E. Termination of public service. For the purposes of Subsections B and C of this Section, termination of public employment or service means the termination of employment with the agency which employed the public employee, or the termination of public service with the agency in which an elected official served, when he participated in the transaction.

F.(1) Each officer and employee of the office of financial institutions, including the commissioner, shall be prohibited for a period of two years following the termination of his employment with the office of financial institutions from:

(a) Assisting another person for compensation in a particular transaction or in an appearance in connection with a particular transaction for which the officer or employee had responsibility to effectively direct the action of the office of financial institutions at any time during his employment and which involves the office of financial institutions; or

(b) Rendering on a contractual basis to or for the office of financial institutions any service which the officer or employee rendered to the office of financial institutions during his employment there.

(2) However, the provisions of Paragraph (1) of this Subsection shall not apply to post-employment work done for or with a federally chartered agency regulating financial institutions or their holding companies.

(3) A legal entity in which a former officer or employee of the office of financial institutions is an officer, director, trustee, partner, or employee shall be prohibited for a period of two years following the termination of his employment, from assisting another person for compensation in a particular transaction or in an appearance in connection with a particular transaction for which such officer or employee had responsibility to effectively direct the action of the office of financial institutions at any time during his employment and which involves the office of financial institutions. This restriction shall not apply to a legal entity which is a federally chartered agency regulating financial institutions or their holding companies. Subject to the provisions of Paragraphs (1), (2), and (4) of this Subsection, such a legal entity may continue to participate in particular transactions commenced prior to termination of the employment with the office of financial institutions of the former officer or employee.

(4) No former officer or employee shall share in any compensation received by another person for assistance which such former officer or employee is prohibited from rendering by this Subsection.

(5) Notwithstanding any other law to the contrary, this Subsection shall be applicable to each officer and employee of the office of financial institutions and shall be the sole controlling provision on post-employment restrictions for such officers and employees.

G. Nothing in this Section shall prohibit a former member of a municipal governing authority from being appointed to fill a vacancy in the office of mayor regardless of the amount of time that has elapsed since the termination of the former member's service as a member of the municipal governing authority.

Acts 1979, No. 443, §1, eff. April 1, 1980; H.C.R. No. 45, 1983 R.S.; H.C.R. No. 237, 1984 R.S.; Acts 1987, No. 893, §1; HCR No. 203, 1988 R.S., eff. July 8, 1988; Acts 1993, No. 445, §1; Acts 1997, No. 745, §1; Acts 1997, No. 944, §1; Acts 1997, No. 1059, §1; Acts 1999, No. 274, §1.

§1122. Continuation in certain pension and other plans by public servants

A. Pension and benefit plans. A public servant may continue in a bona fide pension, insurance, or other benefit plan maintained by a former employer, provided that such former employer makes no contributions in his behalf with respect to the period of his public service. However, a former employer may make contributions to a pension plan that is qualified under the Internal Revenue Code or to any pension, insurance, or other benefit plan, if such contributions are made on behalf of all former employees who continue in the plan.

B. Profit sharing or stock bonus plans. The rights acquired by a public servant under a bona fide profit sharing or stock bonus plan qualified under the Internal Revenue Code and maintained by a former employer may be retained by such public servant, provided the former employer makes no contributions on his behalf based upon profits derived during the period of his public service.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1123. Exceptions

This Part shall not preclude:

(1) Participation in the affairs of charitable, religious, nonprofit educational, public service, or civic organizations, bona fide organized public volunteer fire departments when no compensation is received, or the activities of political parties not proscribed by law. Provided, however, that the Code of Governmental Ethics shall apply to the purchase of fire trucks by bona fide organized public fire departments.

(2)(a) Awards for meritorious public contributions given by public service organizations.

(b) Awards of anything of economic value received by teachers, principals, or school employees pursuant to the provisions of R.S. 17:432, 432.1, 433, or 433.1 for their outstanding achievement in the performance of their duties or responsibilities as teachers, principals, or school employees given by any person. However, this exception shall not apply to any award from any person or from any officer, director, agent, or employee of such person, if the teacher, principal, or school employee receiving the award knows or reasonably should know that the person has substantial economic interests which may be substantially affected by the performance or nonperformance of the teacher's, principal's, or school employee's official duty.

(3) Sharing in any compensation received from the governmental entity by a person of which such public servant owns or controls less than ten percent, provided such public servant did not participate or assist in the procurement of such compensation, except as otherwise specifically prohibited by R.S. 42:1113.

(4) Sharing in any compensation received from the governmental entity by a person of which such public servant owns or controls any portion thereof, provided such compensation was received by such person as a result of having made the lowest sealed competitive bid on a contract or subcontract and having had such bid accepted by the governmental entity or the general contractor, and provided such public servant did not participate or assist in the procurement of the acceptance of such low bid, except as otherwise specifically prohibited by R.S. 42:1113.

(5) Campaign contributions for use in meeting campaign expenses by any public servant who is or becomes a candidate for election to the same or another public office.

(6) Any activity of any public employee of a public higher education institution in this state who is covered by the tenure policy of the Board of Regents or the tenure policies and the administration of the tenure policies by the three higher education management boards and which activity is required by either regional or professional accreditation standards of organizations recognized by the Council on Postsecondary Accreditation.

(7) The employment with the office of mental health of the Department of Health and Hospitals of a licensed physician who is a member of the psychiatric faculty of and compensated by Tulane University.

(8) Any individual employed in the maritime industry from serving as an appointed member of the Board of Commissioners of the Port of New Orleans.

(9)(a) The receipt of or sharing in the proceeds of any patent, copyright, licensing right, or royalty by faculty or staff members of a public higher education institution or management board resulting from any activity of the faculty or staff member, which is consistent

with and pursuant to the mission of the college or university to advance knowledge or further the economic development of the state and which activity has been approved by the campus head and the management board of the employing college or university.

(b) The performance of services for compensation for any person, by faculty or staff members of a public higher education institution, provided the services consist of consulting related to the academic discipline or expertise of said public employee, or the continued performance of such services by former faculty or staff members of a public higher education institution subsequent to the termination of their public service and notwithstanding contrary provisions of R.S. 42:1121, and provided the services have been approved in writing by the chief administrative officer of the public employee's institution in accordance with rules and procedures established by the management board of the institution, which rules and procedures have been approved by the Board of Regents and the Board of Ethics.

(10)(a) The negotiation or entering into a contract as defined in Subparagraph (b) of this Paragraph, provided that such contract has been approved in accordance with a procedure established by the appropriate higher education management board which procedure has been approved by the Board of Regents and the Board of Ethics. Such an approval procedure shall require a finding and certification by the appropriate management board to the Board of Regents that entering into such contract will contribute to the economic development of the state and that entering into such contract will not interfere or conflict with the employee's obligation to the university. Semiannually, the Board of Regents shall report all such certifications to the House Commerce Committee and the Senate Commerce, Consumer Protection, and International Affairs Committee or any subcommittee designated by either standing committee.

(b) A contract between an institution of higher education and a member of its faculty, research staff, or athletic coaching staff or a legal entity in which such employee has a substantial economic interest, regarding the disposition of any patent, copyright, licensing right, or royalty which is attached to a discovery, technique, or technology resulting from the research done by such employee in the course of his employment with the institution, or regarding an activity related to or resulting from the athletic coaching or research activity of such employee conducted in the course of his employment with the institution.

(11)(a) The employment with the office of public health of the Department of Health and Hospitals of retired public health physicians by professional services contracts for part-time clinician services in parish health units. However, a yearly contract shall not exceed twenty percent of the retired employee's former salary. A retired physician shall be employed under this Subparagraph only if there are no public health physicians available to perform the services.

(b) The employment with the Department of Health and Hospitals of retired registered nurses by contract to perform health care services. However, such a contract shall be deemed to be null and void in the event that a registered nurse becomes available to perform the services. A retired registered nurse shall be employed under this Subparagraph only if the nurse was retired on April 1, 1990, and there are no registered nurses available to perform the services.

(12) Any tenant of a housing authority, as defined in R.S. 40:382, from serving on the board of commissioners of that housing authority.

(13) The acceptance by an elected official of anything of economic value as a gift or gratuity from any person when the value of such gift does not exceed one hundred dollars per event, up to an aggregate amount of five hundred dollars in a calendar year from any person, and when the nature of the gift is limited to a cultural or sporting event within the boundaries of this state including the territorial waters thereof, including entertainment reasonably incidental thereto. The provisions of this Paragraph shall also be applicable to an elected official who is on official business of his governmental entity outside of the boundaries of this state as long as said elected official is entitled to compensation or reimbursement from his agency for such official business.

(14) Persons employed by public school systems to provide special education and related services pursuant to R.S. 17:1941 et seq. to exceptional children, as defined by R.S. 17:1943(1), from performing, on a private fee basis and outside of school hours, those same special education and related services for their own students or any other persons eligible to receive such services from their school system during school hours, provided that the child's parents or guardian are advised, in writing, of the procedures through which their child may be evaluated for eligibility to receive such services for free through the school system. With respect to any child already receiving such services for free through the school system, the notice shall explain the procedures through which the child's eligibility to receive additional services for free from the school system may be reviewed.

(15) The use by a duly commissioned law enforcement officer of a publicly owned law enforcement vehicle in connection with the private employment of such law enforcement officer in providing traffic control or security services for a private employer when such use is approved by and in accordance with the policy of the law enforcement officer's public employer, which policy shall be published in the official journal of the parish prior to becoming effective and shall provide for appropriate charges for the use of public vehicles for private employment.

(16)(a) Notwithstanding the provisions of R.S. 42:1102(22), when making a public speech, the acceptance by a member of the legislature of food, refreshments, and lodging reasonably related to making such speech, as well as reasonable transportation from his home, or the capitol, to and from the site of the speaking engagement from the sponsoring group or organization, provided the public speech is given in any state of the United States or Canada and provided such member of the legislature files an affidavit with the Board of Ethics, within sixty days of making such public speech, disclosing the name of the sponsoring group or organization and the amount expended on his behalf by the sponsoring group or organization on food and refreshments, lodging, and transportation.

(b) For the purposes of this Paragraph, the phrase "public speech" shall mean a speech, or other oral presentation, including a panel discussion, or radio or television appearance before the public at large, or before any civic, political, religious, educational, or eleemosynary group or organization by a member of the legislature in his capacity as a legislator.

(17)(a) Notwithstanding the provisions of R.S. 42:1111(C)(2)(d) or 1113(A), in municipalities with a population no greater than five thousand, in accordance with the most recent decennial census, a member of any municipal governing authority or any mayor from being a compensated director, officer, or employee of any national or state bank or state or federally chartered savings and loan association or savings bank into which funds of the municipality are deposited.

(b) This exception shall be effective only when the following conditions are met:

(i) Publication of notice has been made on two separate occasions in the official journal of the municipality, the first of which is at least fifteen days prior to public hearing on the matter. Such notice shall include the name of the financial institution(s) in which municipal funds are to be deposited and the amount of such deposit(s).

(ii) In municipalities where more than one financial institution is located, average annual deposits of municipal funds in one such financial institution shall not exceed the average annual deposits in any other such financial institution by more than ten percent, except in cases where funds are deposited pursuant to competitive bid.

(iii) The municipal funds are deposited with the approval of the municipal governing authority and the mayor.

(c) This exception shall not affect the application of R.S. 42:1112.

(18)(a) A licensed physician who is a member of a board of commissioners for any hospital service district authorized by Chapter 10 of Title 46 of the Louisiana Revised Statutes of 1950 located within a parish which has a population of twenty-five thousand or less from contracting or subcontracting from another provider with the hospital over which the board exercises jurisdiction. However, such licensed physician shall recuse himself from participating in any transaction before the board relating to any contracts entered into by him and permitted by this Paragraph.

(b) A licensed physician who is a cardiologist and who is a member of a board of commissioners for any hospital service district authorized by Chapter 10 of Title 46 of the Louisiana Revised Statutes of 1950 located within a parish which has a population of forty-five thousand or less from contracting or subcontracting from another provider with the hospital over which the board exercises jurisdiction, or from owning an interest in an entity that contracts with the hospital over which the board exercises jurisdiction. However, such licensed physician shall recuse himself from participating in any transaction before the board relating to any contracts entered into by him or by any entity in which he owns an interest that are permitted by this Paragraph.

(19) Any member of the Louisiana Wildlife and Fisheries Commission from holding or obtaining a renewal of oyster leases with the state, personally or through legal entities in which he has ownership interests, even though such leases are subject to the supervision and jurisdiction of the commission, provided that such member shall disqualify himself from participating in any transaction involving the said oyster leases.

(20) An airport authority member or employee in an airport in any parish having a population of less than two hundred thousand persons, according to the most recent census, or an airport authority member or employee in an airport in any parish having a population of two hundred thousand persons or more according to the most recent census if the airport over which such an airport authority has jurisdiction does not have scheduled air service, from using any of the services available at the airport over which he exercises jurisdiction or by which he is employed; provided the services are available to the member or employee subject to the same terms, conditions, and availability as to any other member of the public, whether such services are obtained directly from the airport or from a fixed-based operator. The provisions of this Paragraph shall not apply to the Louisiana Airport Authority.

(21) A building inspector employed by a municipality with a population of twenty-five thousand persons or less as of the most recent federal decennial census, a member of such building inspector's immediate family, or a legal entity in which such building inspector has a controlling interest from performing construction services that are under the supervision or jurisdiction of the agency or governmental entity of the building inspector, provided such services are not performed during the building inspector's assigned

working hours, do not interfere with the performance of his assigned duties, and do not include construction services performed for the agency or governmental entity of the building inspector. Under no circumstances shall the building inspector inspect his own work, the work of his immediate family, or the work of a legal entity in which the building inspector has a controlling interest. A "building inspector" shall mean any person employed by a municipality who tests, examines, or issues a permit for compliance with a building code as defined in R.S. 33:4771.

(22)(a) Any mayor or member of a governing authority of a municipality with a population of three thousand five hundred or less, or legal entity in which he has a controlling interest, from entering into any transaction that is under the supervision or jurisdiction of the municipality.

(b) A mayor or member of a governing authority who enters into a transaction as provided for in Subparagraph (a) of this Paragraph shall do so under the supervision or jurisdiction of the municipality, provided that the municipality submits a plan to the Louisiana Board of Ethics for approval and the board approves the plan. The municipality's plan shall be developed in accordance with the following:

(i) The elected official involved shall immediately recuse himself from acting in his governmental capacity in matters affecting the transaction and file quarterly affidavits concerning the recusal with the clerk of the municipality and the board. The affidavits shall set out the name and address of the elected official, the name and population of the municipality, and a description of the transactions that occurred during the preceding quarter. The plan of the municipality shall set out the due dates of the quarterly affidavits.

(ii) The plan developed by the municipality shall address how the transactions shall be supervised after an elected official is recused.

(iii) Individual transactions of two hundred fifty dollars or less are not required to be subject to the following rules. However, if such transactions involving a single elected official exceed two thousand five hundred dollars in the aggregate within the calendar year, the provisions contained in Items (iv) and (v) of this Subparagraph apply.

(iv) For transactions in excess of two hundred fifty dollars, but less than two thousand five hundred dollars, telephone quotations with written confirmation or facsimile quotations shall be solicited from at least three vendors within the municipality, the parish, or within a fifty mile radius of the municipality. However, in the case of an emergency, no quotations shall be required so long as the elected official recuses himself from the transaction and files an affidavit as required in Item (i) of this Subparagraph within three business days of the occurrence of the transaction. "Emergency" shall be defined in the plan adopted by the municipality and subject to board approval.

(v) In the case of a transaction in excess of two hundred fifty dollars but less than two thousand five hundred dollars, if the quotation submitted by the elected official or legal entity in which the elected official has a controlling interest is the lowest bid received by the municipality the transaction is allowed. The plan adopted by the municipality and subject to board approval may specify situations in which a quotation submitted by the elected official or his legal entity may be accepted even if it was not the lowest bid received by the municipality.

(vi) An elected official or legal entity in which the elected official has a controlling interest may enter into transactions with the municipality in excess of two thousand five hundred dollars only after written invitations are sent to at least three bona fide qualified bidders, other than the elected official or his legal entity, and upon specific advance approval by the board. Any such request for approval shall include the details of the proposed transaction, a copy of the written invitation, copies of the bids received in response to the invitation, and the method of recusal developed by the municipality. The plan developed by the municipality shall set out the details of the bid process.

(23) Any member of the state or regional advisory committees for the office for citizens with developmental disabilities from being employed by a private, nonprofit, corporation, agency, organization, or association that receives state funds under contractual agreement with the office for citizens with developmental disabilities. However, such member shall recuse himself from participating in any action of the committee specifically relating to such contracts with the office for citizens with developmental disabilities for the receipt of state funds.

(24)(a) Any member of the State Licensing Board for Contractors from serving on such board even if he, a member of his immediate family, or a business in which he has a substantial economic interest has participated in a transaction that comes before such board for administrative action. However, such member shall recuse himself from participating in any administrative hearing specifically relating to such transaction. Investigations of such transactions by the staff of the State Licensing Board for Contractors without the direct involvement of such board shall not constitute a violation of this Chapter.

(b) Any member of the State Licensing Board for Contractors, or any legal entity in which he has an interest, from entering into a contract for commercial or residential contractor services or related consulting services for compensation with a person licensed by the

board; provided that no member of the board shall use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any person to enter into such a contract or to provide such board member or any other person with any thing of economic value. However, such member shall be specifically prohibited from providing consulting services for transactions that come before the board for administrative action. In addition, such member shall recuse himself from participating in any administrative hearing involving any licensee with whom he has an existing contractual relationship.

(25) Any client who is not also a vendor of a charitable organization from serving on its board of directors or advisory board, provided that such clients do not constitute twenty percent or more of the board of directors or advisory board. For the purposes of this Paragraph, "charitable organization" shall mean a nonprofit board or association of a community-based HIV/AIDS service corporation or organization domiciled in this state and qualified with the United States Internal Revenue Service for an exemption from federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19) of the Internal Revenue Code.

(26) The acceptance by a public servant of anything of economic value as a gift or gratuity from any person when the value of such gift or gratuity does not exceed one hundred dollars per event, for flowers or a donation in connection with the death of a member of the immediate family of a public servant.

(27) Any board member of the Sabine River Authority who owns a lot contiguous to the "lease back" or "shore line" area of Toledo Bend Reservoir from exercising his option to lease the shore line area contiguous to his lot and obtain a permit for "domestic use", as defined in R.S. 38:2329, of the authority's water. As used in this Paragraph, the "lease back" area, which is also known as the "shore line", is that area owned by the Sabine River Authority, state of Louisiana, that is the property lying between the contour of 172 feet above mean sea level (the normal pool stage) and the contour of 175 feet above mean sea level, or a distance of 50 feet running horizontally from the 172 contour, whichever is greater, and which area is subject to an option to lease by the landowner of the contiguous lot as is provided in the Policy, Rules and Regulations of the Sabine River Authority as adopted by the board of commissioners on August 24, 1967.

(28) The lease of school buses by city, parish, and other local public school boards as provided in R.S. 17:158.7.

(29) A mayor of a municipality with a population not in excess of five thousand persons who is a licensed physician from contracting for the provision of health care services with the health insurer for the employees of his municipality.

(30) A public servant, a legal entity in which he has a controlling interest, or a member of his immediate family, from donating services, movable property, or funds to his agency. Nothing herein shall be construed to allow a public servant to make an appointment of a person which is otherwise prohibited by this Chapter.

(31)(a) Any former city, parish, or other local public school board member who holds a valid Louisiana teaching certificate from being employed by his former school board for any classroom teacher position with such board which requires a valid Louisiana teaching certificate.

(b) Any former city, parish, or other local school board member who holds a valid ancillary certificate in school psychology issued by the state Department of Education from being employed by his former school board for any certified school psychologist position with such board which requires such certificate.

(c) These exceptions shall apply only in parishes with a population not in excess of thirty-six thousand people, as determined by the latest federal decennial census.

(32) Any person who has a contract for advertising services with the Department of Culture, Recreation and Tourism from entering into contracts with any other person who engages in any transaction with the Department of Culture, Recreation and Tourism.

(33) The Metropolitan Council for the city of Baton Rouge and the parish of East Baton Rouge from appointing any one of its members to any board, commission, or other entity created by home rule charter, plan of government, state law, or local ordinance or resolution including but not limited to the Capital Transportation Corporation, the Baton Rouge Area Convention and Visitors Bureau, and the city-parish planning commission.

(34) A member of a municipal or parish governing authority in a parish or municipality with a population of twenty-five thousand persons or less according to the latest federal decennial census or a member of such elected official's immediate family or a legal entity in which he has a controlling interest from making application for the approval of the subdivision or resubdivision of property and for the zoning of such property or for a building permit and any inspections performed pursuant thereto, provided that (a) the zoning of such subdivided property shall not be less restrictive than the zoning of the original parcel, (b) no variance or special exception from any planning or zoning regulation or requirement or any building code or permit shall be requested or granted, (c) the subdivision, resubdivision, or zoning of such property shall be for residential purposes only, (d) the application or applications

submitted by or on behalf of the elected official, a member of his immediate family, or legal entity in which he has a controlling interest, collectively, shall be limited to the subdivision, resubdivision, or zoning of not more than twelve lots per calendar year and the construction of not more than twelve residential units per calendar year, (e) no public funds shall be used to construct any infrastructure for the use or benefit of such property or development, (f) the elected official shall file written notice containing all details regarding the transaction deemed necessary by the Board of Ethics with his governing authority and with the Board of Ethics no later than ten days prior to any hearing pertaining to any such application, or if no hearing is held pertaining to such application, shall file such notice at least ten days prior to final action on any such application, and (g) any such member of a governing authority shall recuse himself from any vote related to such application and shall not participate in any other aspect of the application or transaction.

(35) Any volunteer fireman or uncompensated law enforcement officer or legal entity in which he has an interest from bidding on or entering into a contract, subcontract, or other transaction under the supervision and jurisdiction of his agency; provided that the volunteer fireman or uncompensated law enforcement officer shall receive no compensation or thing of economic value for his service as a volunteer fireman or uncompensated law enforcement officer, that the volunteer fireman or uncompensated law enforcement officer shall not be an agency head, and that the volunteer fireman or uncompensated law enforcement officer shall not participate on behalf of his agency in any capacity regarding such contract, subcontract, or other transaction.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1983, No. 719, §1; Acts 1985, No. 220, §1, eff. July 6, 1985; Acts 1985, No. 426, §2; Acts 1986, No. 374, §1; Acts 1987, No. 229, §1; Acts 1987, No. 370, §1; Acts 1987, No. 491, §1; Acts 1987, No. 593, §1, eff. July 9, 1987; Acts 1987, No. 624, §1; Acts 1988, No. 623, §1, eff. July 14, 1988; Acts 1989, No. 187, §1; Acts 1990, No. 97, §1; Acts 1991, No. 1037, §1; Acts 1992, No. 846, §1, eff. July 8, 1992; Acts 1993, No. 220, §1, eff. June 2, 1993; Acts 1993, No. 257, §1, eff. June 2, 1993; Acts 1993, No. 965, §2, eff. August 15, 1993; Acts 1993, No. 1037, §1; Acts 1995, No. 289, §2; Acts 1995, No. 1156, §1; Acts 1995, No. 1157, §1; Acts 1996, 1st Ex. Sess., No. 64, §11, eff. Jan. 1, 1997; Acts 1997, No. 501, §1; Acts 1997, No. 848, §1; Acts 1997, No. 893, §1; Acts 1997, No. 1107, §1; Acts 2000, 1st Ex. Sess., No. 140, §2, eff. April 19, 2000; Acts 2001, No. 323, §1; Acts 2001, No. 325, §1; Acts 2001, No. 580, §1; Acts 2001, No. 946, §2, eff. June 26, 2001; Acts 2001, No. 998, §1; Acts 2001, No. 1015, §1; Acts 2001, No. 1127, §1; Acts 2003, No. 183, §4; Acts 2003, No. 743, §2, eff. June 27, 2003; Acts 2003, No. 977, §1; Acts 2003, No. 992, §1, eff. July 2, 2003; Acts 2003, No. 996, §1, eff. July 2, 2003; Acts 2003, No. 1282, §1; Acts 2003, No. 1284, §1; Acts 2003, No. 1285, §1; Acts 2003, No. 1288, §1, eff. July 17, 2003.

§1124. Financial disclosure; governor

A. Within thirty days after the date on which the governor enters upon the discharge of his duties as such, and annually thereafter, and within thirty days after the date on which the governor ceases to discharge the duties of his office, he shall file a financial statement, as provided in Subsection B of this Section.

B. The financial statement required by this Section shall be filed on a form prescribed by the Board of Ethics and shall include the following information for the preceding calendar year:

(1) The full name and residence address of the individual who is required to file.

(2) The full name of the individual's spouse, if any, and the spouse's occupation and principal business address.

(3) The name, address, and nature of association with and the amount of interest in each business in which the individual or spouse is a director, officer, owner, partner, member, or trustee, or in which the individual or spouse, either individually or collectively, holds an interest worth in excess of ten percent.

(4) The name, address, type, and amount of each source of income, in excess of one thousand dollars, received by the individual or spouse, and the nature of the services rendered therefor, if any. For income derived from mental health, medical health, or legal services rendered, the individual need only show the amount of the income and not the identity of any individual patient or client.

(5) A brief description, location, and address of each parcel of real property, the fair market value of which exceeds two thousand dollars, in which the individual or spouse, either individually or collectively, has an interest.

(6) A brief description, amount, and date of any purchase, sale, exchange, donation, gift, or other acquisition or disposition, in excess of one thousand dollars, of any real property, and of any stocks, bonds, commodities futures, or other forms of securities, including but not limited to, any option to acquire and/or dispose of any stocks, bonds, commodities futures, other forms of securities, negotiable instruments, movable or immovable property, or any other interest.

(7) The name, address, and amount of each liability owed to any creditor by the individual or spouse which exceeds ten thousand dollars, excluding any loan secured by a personal motor vehicle, household furniture, or appliances, if such loan does not exceed the purchase price of the item which secures it.

C.(1) When an amount is required to be disclosed pursuant to this Section, it shall be sufficient to report the amount by category of value. The categories shall be:

(a) Category I, less than five thousand dollars.

(b) Category II, \$5,000-\$24,999.

(c) Category III, \$25,000-\$49,999.

(d) Category IV, \$50,000- \$99,999.

(e) Category V, \$100,000-\$199,999.

(f) Category VI, \$200,000 or more.

(2) Amounts required to be disclosed shall be valued at actual or fair market value, whichever is greater.

D. The financial statement shall be filed with the Board of Ethics and shall be accompanied by the affidavit of the public official filing it certifying that the information contained in the financial statement is true and correct to the best of his knowledge, information, and belief. The financial statement shall be a public record, subject to the provisions of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950.

E. For the purposes of this Section, an individual or spouse shall not transfer any asset, interest, or liability required to be disclosed pursuant to Subsection B of this Section to any person or business for the purpose of avoiding disclosure, unless such transfer is irrevocable. A transfer shall not be irrevocable if there exists any contract, letter, counter letter, note, or any other legally enforceable agreement or authority which if exercised or enforced would require or authorize any asset, interest, or liability transferred by an individual or spouse to a person or business to revert back to such individual or spouse.

F. For purposes of this Section, the following words shall have the following meanings:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, business, organization, self-employed individual, holding company, trust, or any other legal entity or person.

(2) "Income" means any income from whatever source derived, including but not limited to the following items: compensation for services, including fees, salaries, commissions, and similar items; income derived from business; gains derived from dealings in property; interest; rents; royalties; dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; and income from interest in an estate or trust.

Added by Acts 1982, No. 747, §2; Acts 1996, 1st Ex. Sess., No. 64, §11, eff. Jan. 1, 1997; Acts 1996, 1st Ex. Sess., No. 66, §3, eff. Jan. 1, 1997; Acts 1999, No. 2, §1, eff. April 22, 1999.

§1124.1. Penalties; required reports; failure to file; timely and accurate filing

A.(1) Whoever fails to file a financial statement required by this Part, or knowingly and willfully fails to timely file any such statement, or knowingly and willfully fails to disclose or to accurately disclose any information required by this Part shall be assessed a civil penalty pursuant to R.S. 42:1157 for each day until such statement or the required accurate information is filed.

(2) The amount of such penalty shall be:

(a) Five hundred dollars per day for statements required by R.S. 42:1124.

(b) One hundred dollars per day for statements required by R.S. 42:1114 or 1114.1.

B. Whoever knowingly and willfully files a false report required by this Part shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one thousand dollars nor more than ten thousand or imprisoned in parish prison for not more than six months, or both. Any prosecution under this Subsection shall be tried before a jury of six persons, all of whom must concur to render a verdict.

C. "Knowingly and willfully", for purposes of this Section, means conduct which could have been avoided through the exercise of due diligence.

Acts 1999, No. 2, §1, eff. April 22, 1999; Acts 1999, No. 1349, §2, eff. July 12, 1999.

§1125. Contribution acquired for transition and inauguration; definitions; reporting

A. Any contribution received and accepted by the governor-elect, or anyone on his behalf, following the promulgation of the returns of the general election declaring him to be the governor-elect until his inauguration, shall be reported by the governor to the Board of Ethics as provided for in this Section. The report shall be accompanied by an affidavit by the governor certifying that the information contained in the report is true and correct to the best of his knowledge, information, and belief.

B. As used in this Section:

(1) "Contribution" means a gift, loan, conveyance, payment, or deposit of money or anything of value, including an in-kind contribution, made for the purpose of supporting the transition and any event, activity, or fund associated with the inauguration of the governor-elect. However, "contribution" shall not include funds received pursuant to R.S. 49:209 or the receipt and acceptance of a campaign contribution as defined in R.S. 18:1483(6).

(2) "Transition" means the effort to organize the operations of the governor-elect and includes the acquisition of funds to cover necessary office expenses, including the rental of office space, the employment of clerical and other assistance, and office provisions such as stationery, postage, telephone service or other similar charges.

C. On or before the sixtieth day after the gubernatorial inauguration, the governor shall file one all-inclusive report with the Board of Ethics for which reporting is required by Subsection A which shall state:

(1) The name and address of each person, natural or legal, who has made a contribution.

(2) The date and amount of each contribution and a brief description and valuation of each in-kind contribution.

D. The governor shall be immune from civil liability as a result of any disclosure made pursuant to this Section.

E. Notwithstanding any other provision of law to the contrary, all information required to be reported pursuant to this Section shall be public record.

Acts 1997, No. 1263, §1.

PART III. ADMINISTRATION, PROCEDURE AND ENFORCEMENT

SUBPART A. ADMINISTRATION

§1131. *Repealed by Acts 1996, 1st Ex. Sess., No. 64, §10, eff. Jan. 1, 1997.*

§1132. Board of Ethics

A. Board established. There is hereby established in the Department of State Civil Service the Board of Ethics to be domiciled in the city of Baton Rouge.

B. Membership; terms; vacancies; qualifications. (1) The board shall consist of eleven members to be selected as follows:

(a) The governor shall appoint seven members, who shall be representative of the state's population as near as practicable and who shall be subject to Senate confirmation. At least one member shall be appointed from each congressional district.

(b) Two members shall be elected by the House of Representatives.

(c) Two members shall be elected by the Senate.

(2) The governor shall appoint and the House of Representatives and the Senate shall elect members to the board who shall be representative of the state's population as near as practicable and who shall be from nominees who are selected as follows:

(a)(i) The presidents of Centenary College of Louisiana, Dillard University at New Orleans, Louisiana College, Loyola University at New Orleans, Our Lady of Holy Cross College at New Orleans, Our Lady of the Lake College at Baton Rouge, and Xavier University of Louisiana at New Orleans; and the dean of H. Sophie Newcomb College of Tulane University shall constitute the nominating committee. The nominating committee shall, within sixty days of a vacancy on the board, submit no less than three names of three different eligible nominees for each position or vacancy to the governor, Senate, or House of Representatives, whichever is appropriate. A majority vote of the membership of the nominating committee shall be required to nominate persons to positions on the board.

(ii) The governor shall make an appointment and the Senate and the House of Representatives shall elect members no later than sixty days after the receipt of the names of the nominees. Should the governor fail to make an appointment in the sixty-day period, the nominee listed first on the list of nominees shall be deemed appointed to fill the vacancy. Should the Senate or House of Representatives, whichever is appropriate, fail to elect a member from the list of nominees in the sixty-day period, the nominee listed first on the list of nominees shall be deemed elected to fill the vacancy.

(b) A vacancy on the board for any cause shall be filled in the same manner as the original appointment and from the same source for the remainder of the original term. If the nominating committee fails to submit nominees in the time required, the governor shall make the appointment or the Senate or the House of Representatives shall elect a person to the board.

(3)(a) Members of the board shall serve for staggered terms. Initial service shall be as provided in this Section. Thereafter, all terms shall be for five years.

(b) Initial terms shall be as follows:

(i) Three members shall be appointed for a three-year term by the governor.

(ii) Three members shall be appointed for a four-year term by the governor.

(iii) One member shall be appointed for a five-year term by the governor.

(iv) Two members shall be elected for a five-year term by the Senate.

(v) Two members shall be elected for a five-year term by the House of Representatives.

(c) No member may serve more than two consecutive terms.

(4)(a) No former board member may qualify as a candidate for any elected office within six months of the termination of his term on the board.

(b) No elected official or former elected official may serve as a member of the board within six months of the termination of his term.

(c) No public employee or former public employee shall serve as a member of the board within six months of the termination of his employment other than as a member of the board.

(d) No person shall be eligible for selection who has been registered as a lobbyist before the legislature within two calendar years of the date of appointment. Should any member serving on the board thereafter register as a lobbyist, he shall immediately resign his position on the board.

(e) No member of the board and no officer or employee of the board shall participate or engage in an effort to support or oppose the election of a candidate for political office or to support a particular party or issue in an election; be a member of any national, state, or local committee of any political party or faction; make or solicit contributions for any political party, faction, candidate, or issue; 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 and to cast his vote as he desires.

(f) Notwithstanding any provision of law to the contrary, no member of the Board of Ethics shall serve at the same time on any other board or commission, the membership of which is appointed in whole or in part by the governor.

(g) No person shall be eligible for selection who is a party to any contract with any agency, entity, or political subdivision of the state.

(h) Repealed by Acts 2001, No. 291, §2, eff. June 6, 2001.

C. Jurisdiction. The board shall administer and enforce the provisions of this Chapter and the rules, regulations, and orders issued hereunder with respect to public employees and elected officials. In addition, the board, functioning as the Supervisory Committee on Campaign Finance Disclosure, shall administer and enforce the provisions of Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, and the rules, regulations, and orders issued thereunder. In addition, the board shall administer the provisions of Part IV of Chapter 2 of Title 18 of the Louisiana Revised Statutes of 1950, relative to elections integrity.

D. Additional Jurisdiction. The board shall administer and enforce the provisions of R.S. 27:63, 96, 226, 261, and Part III of Chapter 1 of Title 24 of the Louisiana Revised Statutes of 1950, R.S. 27:316, and R.S. 47:9072.

Acts 1979, No. 443, §1, eff. April 1, 1980. Amended by Acts 1981, No. 59, §2, eff. June 17, 1981; Acts 1989, No. 45, §2; Acts 1989, No. 721, §1, eff. July 8, 1989 until July 1, 1990; Acts 1991, No. 755, §1, eff. Jan. 1, 1992; Acts 1993, No. 965, §3, eff. August 15, 1993; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997; Acts 2001, No. 291, §§1 and 2, eff. June 6, 2001; Acts 2001, No. 482, §1.

§1133. Board of Ethics; quorum, recusal, compensation, officers

A. Quorum. Six members shall constitute a quorum for transacting the business of the board.

B. Recusal. Any member of the board who has a personal interest in or who becomes the subject of an investigation or hearing by the board shall recuse himself from participation in such investigation or hearing.

C. Compensation. Members of the board shall receive fifty dollars per diem for each day devoted to the work of the board. They shall also receive reimbursement for vouchered traveling, lodging, and other expenses at the rate established for state employees.

D. Officers. The board shall elect a chairman from among its members to serve a two-year term. The board shall select other necessary officers from among its membership.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1989, No. 721, §1, eff. July 8, 1989; Acts 1990, No. 1076, §1, eff. July 31, 1990; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1134. Powers, duties, and responsibilities of the board

A.(1) The board may adopt, amend, repeal, and enforce rules and regulations in the manner provided by the Administrative Procedure Act to carry out the provisions and purposes of this Chapter and any other law within its jurisdiction.

(2) The board shall provide for procedural rules governing the establishment and implementation of time periods for the dismissal of a complaint, the filing of a formal charge, the notification of the parties of the rendition of a decision, and the assessment of penalties.

B. The board shall select an executive secretary who shall perform the necessary administrative and other functions that the board may delegate. The executive secretary shall be a full-time public employee and shall not engage in any employment with any other agency of the state or with a political subdivision or agency thereof or enter into any contract or subcontract with any other agency of the state or with a political subdivision or agency thereof. All investigations, normal staff functions, and legal services shall be conducted by the staff of the Department of State Civil Service, under the authority and direction of the board. The board may obtain investigative assistance from any agency.

C. The board may conduct private investigations in carrying out the board's responsibilities and powers under this Chapter and in obtaining information to serve as a basis for recommending additional legislation related to the purposes of this Chapter.

D. The board or a panel thereof may conduct private and public hearings in the discharge of the board's responsibilities.

E. The board may render advisory opinions with respect to the provisions of this Chapter and any other law within its jurisdiction and rules and regulations issued by the board. To facilitate this process, the board may provide by rule, for a consent agenda of proposed decisions on advisory opinions which shall be researched and prepared by the board's staff. Such rules shall provide for removing from the consent agenda any proposed advisory opinion which a member objects to considering on the consent agenda. Only those advisory opinions which are based on and consistent with prior opinions rendered by the board or its predecessors or prior decisions made by the board shall be placed on the consent agenda. The board may review and revise any opinion prepared by staff which has been or shall be placed on the consent agenda.

F. The board shall receive reports from agencies and collect information with respect to, and conduct studies of, personal conflicts of interest of public servants within its jurisdiction.

G. The board may consult with appropriate officials with respect to conflict of interest matters affecting more than one public agency.

H. The board may consult with agency heads and with appropriate officers designated by them as to the administration of this Chapter, within the board's jurisdiction, within their respective agencies and the regulations issued hereunder applicable to their respective agencies.

I. The board shall provide reports and information to the governor, the legislature, and to governing authorities concerning the administration of this Chapter within its jurisdiction and conflict of interest matters generally.

J. The board shall make recommendations to the governor and the legislature for revisions in the Code of Governmental Ethics and other legislation relating to the conduct of public servants and other persons subject to the provisions of this Chapter who are within its jurisdiction.

K. The board shall do and perform such other acts, duties, and functions as are provided elsewhere in this Chapter as it shall deem appropriate in connection with the provisions of this Chapter within its jurisdiction.

L. The board shall establish and implement a policy to provide information and material, in booklet form, by seminar, or by other means to any individual appointed to a public board or commission, that is not a state board or commission, which would inform them of the provisions of the Code of Governmental Ethics which are applicable to such appointed positions. The board may adopt and charge a fee, in accordance with the Administrative Procedure Act, for any material or seminar provided pursuant to this Subsection.

M. The board shall establish a computerized data management system for the collection and dissemination of any material pursuant to the provisions of this Chapter and for the processing of any reports required to be filed with the board or pursuant to the provisions of this Chapter, Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, or any other provision of law.

N. The board shall periodically conduct educational activities, seminars, and publish appropriate materials which provide instruction and information relative to the subjects of ethics and conflicts of interest concerning the following provisions: the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the provisions in Part III of Chapter 1 of Title 24, relative to lobbying, the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Lottery Corporation Law, the Video Draw Poker Devices Control Law, and any other matter within the board's jurisdiction or as provided in this Chapter. Such activities, seminars, and materials shall explain the law in plain language and shall be open or available to public servants in all state and local agencies and persons who do business with such agencies.

Acts 1979, No. 443, §1, eff. April 1, 1980. Amended by Acts 1981, No. 59, §2, eff. June 17, 1981; Acts 1993, No. 909, §1; Acts 1996, 1st Ex. Sess., No. 64, §§6, 10, eff. Jan. 1, 1997.

§1135. Enforcement of regulation, decision, or order of the board

Any valid regulation, decision, or order of the board shall be enforceable in any court of competent jurisdiction in this state by a mandamus or injunction suit brought for that purpose. The district court for the parish wherein the board is domiciled shall have authority to convert a valid final decision or order of the board into a court order, upon receipt from the board of a rule to show cause for that purpose.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1987, No. 730, §1; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

SUBPART B. PROCEDURE

§1141. Procedure

A. Panels. (1) The board members shall sit en banc and in panels in such order and at such times as the board directs.

(2) The board shall authorize the hearing and determination of matters by separate panels, each consisting of not less than three members. Such panels shall sit at the times and places to hear matters assigned as the chairman directs. Such hearings shall be public except those provided for in Subsection C of this Section. Each panel shall be vested with specific subject matter jurisdiction. The board may determine by rule a procedure to rotate members among different subject matter panels to encourage the participation of each member of the board in, and the knowledge of each member of the board of, matters concerning the different provisions of law under the jurisdiction of the board.

(3) Matters shall be heard and determined by the board or panel of not less than three members, unless a hearing before the board en banc is ordered by a majority of the members of the board. The presence of the three members of the panel shall be required to conduct the business of the panel.

(4) Notwithstanding any other provision of this Chapter, the presence of nine members shall be required to conduct the business of the board sitting en banc.

(5) The board shall promulgate procedural and jurisdictional rules relative to the establishment of the several panels. The rules shall specify procedures wherein the chairman may refer matters to the appropriate panel with proper subject matter jurisdiction.

(6) The board, by a majority vote of its membership, may review any opinion, decision, finding, or ruling of any panel.

B. Complaints. (1)(a) The board shall consider any signed sworn complaint from any elector, hereinafter referred to as complainant, concerning a violation of this Chapter which is within its jurisdiction or the regulations or orders issued by the board, or may by a two-thirds majority vote of its membership, consider any matter which it has reason to believe may be a violation of this Chapter. Additionally, the board may consider any matter which it has reason to believe may be a violation of any other provision of law within its jurisdiction as provided in this Subsection or as may be otherwise provided by law. A certified copy of the vote and explanation of the matter or a copy of the sworn complaint if one has been submitted to the board shall be sent by certified mail to the accused and the complainant within ten days after the vote occurs. The chairman of the board shall assign each such matter to the appropriate panel for investigation.

(b) The board shall provide a person who has filed a non-sworn complaint with only a notification stating the final disposition of the complaint.

(2) A notice or report sent to the board by the legislative auditor or the inspector general may be treated by the board as a matter for consideration in accordance with the provisions of this Subsection.

(3) If an elected official has tested positive for the use of illegal drugs or if an elected official has refused to submit to a drug test required pursuant to R.S. 42:1116.1, the board shall treat such conduct as a matter for consideration in accordance with the provisions of this Subsection.

C. Investigation and hearing. (1) Upon receiving a sworn complaint or voting to consider a matter as provided in Subsection B, a private investigation shall be conducted to elicit evidence upon which the panel as provided in this Section shall determine whether to recommend to the board to conduct a public hearing or that a violation has not occurred. The defendant and the complainant shall be given written notification of the commencement of the investigation not less than ten days prior to the date set for the investigation. All determinations in this Subsection shall be by a majority vote of the panel. However, in cases where the panel consists of three members, all determinations of such a panel shall require a unanimous vote of the members of the panel.

(2) After the investigation has been completed, the board shall determine whether to conduct a public hearing to receive evidence and to determine whether any violation of any provision of law within its jurisdiction has occurred, and if a violation has occurred, to prescribe authorized penalties. If a violation has not occurred, the defendant and the complainant shall be notified within ten days of the ruling.

D. Location of hearings. The board or panel may conduct any hearing provided in this Section in the parish wherein the public servant or person alleged to have violated any provision of law within the jurisdiction of the board resides, or in the parish of the official domicile of any office or employment held by the defendant, or in the parish of domicile of the board.

E. Procedure. (1) Any public servant or other person who is to be the subject of a public or private hearing and the complainant shall be given written notification of the pending charges and of the time and place such hearing is to be held. Such notification shall not be

less than sixty days prior to the date set for the hearing. Upon the request of a public servant or other person charged, the hearing may be held sooner.

(2)(a) For purposes of an investigation or a hearing, the board or panel may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records which the board deems relevant or material to the investigation or hearing. Such attendance of witnesses and the production of any such records may be required at any place designated by the board or panel at no cost to the public servant or other person charged as permitted by the rules of the board.

(b) The board shall adopt rules providing for discovery consistent with Chapter 3 of Title III of Book II of the Code of Civil Procedure, to the extent and in the manner appropriate to its proceedings.

(3) In case of contumacy or refusal to obey a subpoena issued to any public servant or other person, any district court of this state within the jurisdiction of which the inquiry is carried on, or within which said public servant or other person is found, resides, or transacts business, upon application by the board shall have jurisdiction to issue to such public servant or other person an order requiring him to appear before the board or panel and to produce evidence, if so ordered, or to give testimony touching on the matter under consideration. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

(4)(a) If any public employee shall willfully refuse or fail to appear before the board or panel, or any court authorized to conduct any hearing or inquiry pertaining to the provisions of this Chapter, or having appeared shall refuse to testify or answer any question specifically, directly, and narrowly relating to the performance of his official duties on the ground that his testimony or answers would tend to incriminate him, or shall refuse to accept immunity from prosecution on account of any matter about which he may be asked to testify at any such hearing or inquiry, such action shall be grounds for dismissal or forfeiture of his office or position and if dismissed, he shall not be eligible thereafter for employment by the governmental entity for a period of five years, unless such reemployment is authorized by a majority vote of the membership.

(b) If any elected official shall willfully refuse or fail to appear before the board or panel, or any court authorized to conduct any hearing or inquiry pertaining to the provisions of this Chapter or having appeared shall refuse to testify or answer any question specifically, directly, and narrowly relating to the performance of his official duties on the ground that his testimony or answers would tend to incriminate him, or shall refuse to accept immunity from prosecution on account of any matter about which he may be asked to testify at such hearing or inquiry, such action shall be grounds for the board to prescribe the penalties provided in R.S. 42:1153 against such elected official.

(5) No disciplinary action shall be taken against a public servant or other person by the board or panel unless it is determined by a majority vote of the membership of the board or panel that such public servant or other person has violated a provision of law within its jurisdiction at a public hearing conducted for that purpose. However, in cases where the panel consists of three members, all determinations of such a panel shall require a unanimous vote of the members of the panel.

(6) Any public servant or other person who is the subject of any hearing may have legal counsel, cross examine witnesses, call witnesses, and present evidence in his own behalf.

(7) Any public servant or other person who is the subject of any investigation shall be advised of his right to have an attorney present.

(8) Any witness may be accompanied by counsel at investigations or hearings, which counsel may advise the witness of his rights, subject to reasonable limitations to prevent obstruction of or interference with the orderly conduct of the investigation or hearing. His counsel may also submit proposed questions to be asked for his client.

(9) Any witness at any investigation or hearing, subject to rules and regulations promulgated by the board, shall be entitled to a copy of his testimony when the same becomes important and relevant in a criminal proceeding or subsequent investigation or hearing provided that the furnishing of such copy will not prejudice the public safety or security.

(10) In making any official determination of whether any provision of law within the jurisdiction of the board has been violated, the board or panel may only consider testimony given under oath and transcribed verbatim by a reporter.

(11)(a) If the public hearing of the board or panel fails to disclose any substantial evidence to support the charges, the board or panel shall make an official determination of its findings and thereupon close its file on the charges. The public servant or other person charged and the complainant shall be notified in writing within ten days of the board's or panel's rendition of a final decision. The public servant or other person charged may require the board or panel to make an official determination of the validity of the charges against him.

(b) Any public servant or other person who is aggrieved by any action taken by a panel may request a review of the panel's decision by the board. The board shall determine whether or not to review the panel's action within fourteen days of the request for review.

(12) The records of the board prepared or obtained in connection with investigations and private hearings conducted by the board, including all extracts of minutes and votes to take any manner under consideration in connection therewith, shall be deemed confidential and privileged, except that such records shall be available to each member of the board upon request. Except as provided in this Paragraph and in R.S. 42:1111(E)(2)(c), all records, including the results and conclusions reached in connection with any investigation or hearing, shall be public.

(13)(a) It shall be a misdemeanor, punishable by a fine of not more than two thousand dollars or imprisonment for not more than one year, or both, for any member of the board, its executive secretary, other employee, or any other person, to make public the testimony taken at a private investigation or private hearing of the board or to make any public statement or give out any information concerning a private investigation or private hearing of the board without the written request of the public servant or other person investigated.

(b) Upon receipt of a written request by the public servant or person charged, the board shall furnish the requestor with a certified copy of the entire proceedings of a private hearing, including a verbatim transcript of all testimony considered at such hearing, and make public the findings of any private investigation or hearing in connection with the charges.

F. Exception. The provisions of R.S. 42:4.1 et seq. shall not apply to investigations and hearings conducted by the board.

Acts 1979, No. 443, §1, eff. April 1, 1980. Amended by Acts 1980, No. 579, §1; Acts 1980, No. 580, §1; Acts 1987, No. 730, §1; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997; Acts 1997, No. 1303, §1; Acts 2001, No. 384, §1.

§1142. Appeals

A. Whenever action is taken against any public servant or person by the board or panel or by an agency head by order of the board or panel, or whenever any public servant or person is aggrieved by any action taken by the board or panel, he may appeal therefrom to the Court of Appeal, First Circuit, if application to the board is made within thirty days after the decision of the board becomes final. Any advisory opinion issued to any person or governmental entity by the board or panel or any preliminary, procedural, or intermediate action or ruling by the board or panel is subject to the supervisory jurisdiction of the appellate court as provided by Article V, Section 10 of the Constitution of Louisiana. The Court of Appeal, First Circuit, shall promulgate rules of procedure to be followed in taking and lodging such appeals.

B. In the event that any public employee suspended or dismissed by order of the board or panel, or any public employee suspended or dismissed by an appointing authority at order of the board or panel expressly for violation of any provision of law within the jurisdiction of the board is ordered reinstated by court order upon appeal, the public employee shall be entitled to receive his back pay for the period of his suspension or improper dismissal less any earnings by him during the period from other sources, provided, however, that there shall be excluded from the mentioned deduction costs of court and reasonable attorney fees which shall be fixed by the court.

C. Notwithstanding the provisions of this Section, a public employee who has attained permanent status in the classified state or city service, as provided in Article X, Section 1 of the Constitution of Louisiana, may, whenever any disciplinary action is taken against him by the board or panel or by an appointing authority by order of the board or panel, appeal therefrom to the appropriate civil service commission, if application to the board is made within thirty days after the decision of the board or panel becomes final. Any decision of a civil service commission may be appealed to the Court of Appeal, First Circuit, either by the board or the public employee, upon application to the civil service commission within thirty days after the decision of such civil service commission becomes final.

D. Notwithstanding the provisions of this Section, any tenured public employee of a public institution of higher education in this state may, whenever any disciplinary action is taken against him by the board or panel or by the appointing authority by order of the board or panel, appeal therefrom to the appropriate higher education management board, if application to the board is made within thirty days after the decision of the board or panel becomes final. Such appeal shall be solely on the record of the board or panel hearing and the board shall adopt rules and regulations to effectuate the preparation of such record. If appeal is timely filed, the appropriate higher education management board shall review the record and decision shall be rendered thereon within one hundred twenty days of the receipt of the record from the board. Any decision of a higher education management board may be appealed to the Court of Appeal, First Circuit, as provided in this Chapter, either by the board or by the tenured public employee, upon application to the appropriate higher education management board within thirty days after the decision of such higher education management board is rendered.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997; Acts 1999, No. 252, §1, eff. June 11, 1999.

§1143. Procedure and rules of evidence

Except as otherwise provided in this Chapter, all proceedings conducted by the board or panel shall be subject to and in accordance with the Administrative Procedure Act.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

SUBPART C. ENFORCEMENT AND PENALTIES

§1151. Administrative enforcement

A. Enforcement as to current public employees. An agency head and any other public servant having the authority to appoint a person to a position of public service, regardless of whether or not such appointment requires the approval of the Senate or any other body, employee, or person, shall take such action as may be ordered by the board or panel with respect to any public employee within his agency or any such appointee, upon a finding by the board or panel that such employee or appointee has violated any provision of law within the jurisdiction of the board or any order, rule, or regulation promulgated thereunder. Such action may include the imposition of the conditions described in Subsection B of this Section.

B. Enforcement as to former public servants and other persons. Upon a finding by the board or panel or a court of competent jurisdiction, that a former public servant or other person has violated any provision of law within the jurisdiction of the board or any order, rule, or regulation promulgated hereunder, the agency head or the board or panel shall bar or impose reasonable conditions upon:

(1) The appearance before such agency of such former public servant or other person.

(2) The conduct of, or negotiation or competition for, business with such agency by such former public servant or other person, for such period of time as may be necessary or appropriate to effectuate the purposes of this Chapter.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1152. Rescission of action of a governmental entity

A. Subject to the limitations hereinafter set forth, the board or panel may cancel or rescind any contract of or permit or license issued by a governmental entity without liability to the governmental entity when:

(1) The board or panel has found that a violation of law within the jurisdiction of the board has influenced the issuing of the permit or license or the making of such contract.

(2) The board or panel finds under all of the circumstances that the interests of the governmental entity so require; however, such rescission is to be limited so as to not adversely affect the interests of innocent third parties.

B. The finding referred to in Subsection A of this Section shall be made in accordance with the procedures set forth in R.S. 42:1141 and shall be subject to judicial review in accordance with the provisions of R.S. 42:1142, provided that the board or panel may suspend the contract, permit, or license of the governmental entity subject to the limitations in Paragraph A(2) of this Section pending the determination of the merits of the controversy.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1988, No. 581, §1; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1153. Penalties

A. Upon finding that any elected official or other person has violated any provision of any law within the jurisdiction of the board except violations of the Campaign Finance Disclosure Act which shall be governed by Chapter 11 of Title 18 of the Louisiana Revised Statutes of 1950, the board by a majority vote of the membership, may censure the elected official or person, or impose a fine of not more than ten thousand dollars, or both.

B. Upon finding that any public employee or other person has violated any provision of any law within the jurisdiction of the board except violations of the Campaign Finance Disclosure Act which shall be governed by Chapter 11 of Title 18 of the Louisiana Revised

Statutes of 1950, the board by a majority vote of the membership, may remove, suspend, or order a reduction in pay, or demotion of the public employee or other person, or impose a fine of not more than ten thousand dollars, or both.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997; Acts 1996, 1st Ex. Sess., No. 66, §3, eff. Jan. 1, 1997.

§1154. Civil penalties for illegal payments

When the results of a board investigation pursuant to R.S. 42:1141 indicates that a violation of R.S. 42:1117 has occurred, the board may order the payment of a penalty by any person who violates R.S. 42:1117. The penalty shall be limited to an amount not in excess of ten thousand dollars. Any appeal of such order by the board shall be to the Court of Appeal, First Circuit, pursuant to R.S. 42:1142.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 66, §§3, 5, eff. Jan. 1, 1997.

§1155. Penalties for illegal gain; forfeiture of gifts, payments

A. If an investigation pursuant to R.S. 42:1141 reveals that any public servant or other person has violated any law within the jurisdiction of the board to his economic advantage, the board may order the payment of penalties. Recovery may include, in addition to an amount equal to such economic advantage, penalties not to exceed one half of the amount of the economic advantage. Any appeal of such order shall be to the Court of Appeal, First Circuit, pursuant to R.S. 42:1142.

B. The board is authorized to order the forfeiture of any gifts or payments made in violation of this Chapter.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997; Acts 1996, 1st Ex. Sess., No. 66, §3, eff. Jan. 1, 1997.

§1156. Finding of possible criminal violation

Upon finding at a public hearing that there is probable cause to believe that any public servant or other person has violated any criminal law of this state, the board or panel shall forward a copy of its findings to the district attorney of the parish in which the violation occurred, for appropriate action. Thereafter, notwithstanding any other provision of this Chapter, such district attorney shall have access to all records of the board relative to such charges.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1157. Late filing fees

A.(1) The staff of the board may automatically assess and order the payment of late filing fees, in accordance with rules adopted by the board, for any failure to timely file any report or statement due under any law under its jurisdiction as provided in R.S. 42:1132(C) or R.S. 24:50 et seq. The board shall promulgate rules to facilitate the carrying out of the provisions of this Chapter regarding order for and payment of late fees. Any appeal of such order for the payment of late fees shall be to the board, which shall promulgate rules governing the procedure for appeals of late filing fees.

(2) The late filing fees for election campaign finance reports shall be as provided in R.S. 18:1505.4.

(3) The late filing fees for any lobbyist required to register and file reports under the provisions of R.S. 24:50 et seq., shall be as provided in R.S. 24:58(D).

(4) The late filing fees for any violation of R.S. 42:1114, 1114.1, and 1124 shall be as provided in R.S. 42:1124.1(A).

(5) Any late filing fees assessed by the board or the staff of the board, for any failure to timely file any report or statement due, shall not exceed the following:

(a) If the fee is forty dollars per day, the maximum shall be one thousand dollars.

(b) If the fee is fifty dollars per day, the maximum shall be one thousand five hundred dollars.

(c) If the fee is sixty dollars per day, the maximum shall be two thousand dollars.

(d) If the fee is one hundred dollars per day, the maximum shall be two thousand five hundred dollars.

(e) If the fee is two hundred dollars per day, the maximum shall be three thousand dollars.

B. The staff of the board shall mail by certified mail a notice of delinquency within four days after the due date of which the staff knows or has reason to know, for any report or statement due under the laws within its jurisdiction which has not been timely filed.

C. All funds collected by the staff of the board as provided in Subsection A of this Section shall be deposited upon receipt in the state treasury.

Acts 1996, 1st Ex. Sess., No. 66, §§3, 5, eff. Jan. 1, 1997; Acts 1999, No. 2, §1, eff. April 22, 1999; Acts 1999, No. 417, §1; Acts 1999, No. 1349, §2, eff. July 12, 1999; Acts 2001, No. 293, §1.

§1157.1. Timely filing of reports and statements due; presumption

A. The filing of reports and statements shall be deemed timely in the following cases:

(1) The papers are hand-delivered, mailed, or deposited for delivery with a commercial delivery service, on or before the due date. If the papers are received by mail or delivered by a commercial delivery service on the first day following the due date, there shall be a rebuttable presumption that the papers were timely filed. In all cases where the presumption does not apply, the timeliness of the filing shall be shown only by an official U.S. postmark, official receipt or certificate from the U.S. Postal Service, or by receipt or invoice of a commercial delivery service made at the time of mailing or deposit for delivery which indicates the date thereof. For purposes of this Section, "by mail" applies only to the U.S. Postal Service.

(2) The report or statement due is transmitted by facsimile transmission or electronic transfer and received by the board on or before the due date. Any report or statement transmitted by facsimile transmission or electronic transfer and received by the board shall be considered as if filed in the original. However, in the case where the staff of the board discovers that a facsimile transmission or electronic transfer is illegible upon receipt, the staff shall immediately give notice to the party whose report or other statement is illegible that a legible copy of such facsimile transmission or electronic transfer shall be mailed, transmitted by a commercial delivery service, or hand-delivered within twenty-four hours to the offices of the board. The filing date shall be deemed to be the date of receipt of the facsimile transmission or electronic transfer of the report or statement.

B. If the date on which a report or statement is required to be filed occurs on a weekend or a federal or state holiday, the report shall be filed no later than the first working day after the date it would otherwise be due that is not a federal or state holiday.

Acts 1996, 1st Ex. Sess., No. 66, §§3, 5, eff. Jan. 1, 1997; Acts 1999, No. 164, §2.

§1157.2. Waiver of late filing fee; rules; good cause

The board shall promulgate rules to provide for waiver of late filing fees for "good cause" shown. "Good cause" shall be defined for purposes of this Section as any actions or circumstances which, in the considered judgment of the board, were not within the control of the late filer and which were the direct cause of the late filing or any provision specified in R.S. 18:1511.5(B).

Acts 1996, 1st Ex. Sess., No. 66, §§3, 5, eff. Jan. 1, 1997.

§1157.3. Outside counsel; contingency fee; enforcement and collection authority

The board may contract with outside counsel on a contingency fee basis to enforce judgments that may arise under this Part. Any such firm or attorney shall be selected pursuant to a request for proposals in accordance with Chapter 16 of Title 39 of the Louisiana Revised Statutes of 1950.

Acts 1999, No. 850, §1.

SUBPART D. COMPUTER DATA MANAGEMENT SYSTEM

§1158. Board of Ethics Computerized Data Management System; purpose; goals

A.(1) To enhance the board's ability to govern and enforce the Code of Governmental Ethics and to provide efficient and economical dissemination of information, the board shall establish the Board of Ethics Computerized Data Management System.

(2) The following basic specifications shall be designed into the board's computerized data management system:

(a) The system shall be capable of handling each type of report required to be filed with the board.

(b) The system shall permit electronic filing of all reports required to be filed with the board or as provided for by this Chapter.

(c) The system shall provide for in-house review of all reports filed with the board.

(d) The system's data base shall be categorized to provide for citizen's access of all reports filed with the board.

B. The computerized data system shall be used to aid in the distribution of materials to state and local agencies as provided in R.S. 42:1170.

C. Notwithstanding any contrary provision of this Section, any material or information which is confidential as provided by law shall be excluded from such public access.

D. The Board of Ethics Computerized Data Management System shall commence basic operations no later than May 1, 1997, with total implementation of the system as provided for in this Subpart by May 1, 1998.

Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1159. Access; Internet; restrictions

A. To enhance the public's ability to gather information easily regarding the conduct of elected officials, public employees, and other persons regulated by the board, the board shall maintain a website which allows the public to quickly and easily review disclosure reports filed with the board, agendas of board meetings, and opinions and decisions rendered by the board.

B. The board shall regularly review and update its website to improve access to its public information.

C. The board shall not reduce or impair in any manner the level of the public's access via the Internet to the information provided by the board on its website from the level of access that exists on June 5, 2003.

D. The board shall exclude from the website any material or information which is confidential as provided by law.

Acts 2003, No. 203, §1, eff. June 5, 2003.

PART IV. MISCELLANEOUS PROVISIONS

§1161. Preventive measures by agency heads

A. Filing of reports. Every agency head shall file confidential reports with the board or panel on any matters that come to his attention which he believes may constitute a violation of this Chapter which is within the board or panel's jurisdiction.

B. Cooperation with board. Every agency head shall cooperate in every possible manner in connection with any investigation or hearing which may be lawfully conducted by the board or panel.

C. Compliance with order of board or panel. Every agency head shall forthwith comply with any lawful order received from the board or panel and shall immediately take disciplinary action against any employee under his supervision when ordered to do so by the board or panel.

D. Failure to comply with order of board or panel. Failure on the part of any agency head who is not an elected official to comply promptly with any lawful order received from the board or panel shall subject him to all penalties provided for elsewhere in this Chapter and shall cause the immediate suspension of all salary and other benefits which he otherwise would be entitled to receive. Such suspension shall remain in effect during the period in which he fails or refuses to comply, and all public employees are hereby directed to refuse to honor any drafts or other documents which would violate this provision.

E. Agency employment lists. Every agency head shall furnish the board or panel, upon request, a list showing the names, positions, compensation, if any, and the time actually spent earning such compensation of all agency employees. The list shall be prepared at the expense of the agency furnishing it out of funds available to such agency.

F. Screening of employees. Every agency head shall constantly screen all employees under his supervision to ascertain that such employees are needed to perform the work of the agency and shall promptly take the necessary steps to reduce the number of the employees of the agency to a sufficient or satisfactory number required. Knowingly having one or more employees on the payroll who are not rendering service for which they are being paid or having one or more employees on the payroll that violate the provisions of R.S. 42:1119 shall subject the agency head, a public employee having the authority to hire and fire the employee, and the immediate supervisor of the employee, as well as such employee, to the disciplinary action and penalties provided by this Chapter.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §§6, 11, eff. Jan. 1, 1997.

§1162. Copy of ethics code to be furnished by the secretary of state

Whenever the secretary of state shall issue a commission to a public servant, he shall include therewith a copy of this Chapter in pamphlet or other form convenient to the secretary, and the public servant shall acknowledge receipt thereof when filing his oath of office with the secretary of state.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1163. Prescription

No action to enforce any provision of this Chapter shall be commenced after the expiration of two years following the discovery of the occurrence of the alleged violation, or four years after the occurrence of the alleged violation, whichever period is shorter.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1164. Criminal laws not affected

Nothing in this Chapter is intended to nor is to be construed as repealing, amending, or modifying in any way any provision of any criminal law of this state.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1165. Authority of school boards to administer tenure laws not affected

A. Nothing in this Chapter is intended nor shall it be construed to have the effect of repealing, amending, or modifying in any way any state tenure statutes pertaining to the rights of probationary or permanent teachers or other public employees of any parish or city school board of this state nor the authority of any such school board to administer the state tenure statutes, relative to teachers and other public employees of the school board, when such teachers and other public employees are serving in their official capacities. All job actions based upon the causes for disciplining or dismissal of teachers or other school public employees, as may be now or hereafter set forth in the state tenure statutes, shall remain under the exclusive jurisdiction of the appropriate parish or city school board.

B. Subject to the provisions of Subsection A, the board or panel may order that any public employee of a parish or city school board of this state be disciplined or dismissed as provided in this Chapter whenever the board or panel has determined that the public employee has violated any provision of law within the jurisdiction of the board.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1166. Violation of code by tenured public employee of a state public higher education institution

Any final determination that a tenured public employee of a public higher education institution in this state has violated any provision of law within the jurisdiction of the board, except as otherwise exempted therefrom, may be grounds for disciplining or dismissing the tenured public employee by the appropriate higher education management board, or by the appointing authority by order of the board or panel in accordance with applicable tenure law, rule, or policy.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1167. Judges

All judges, as defined by the Code of Judicial Conduct, shall be governed exclusively by the provisions of the Code of Judicial Conduct, which shall be administered by the Judiciary Commission provided for in Article V, Section 25 of the Constitution of Louisiana.

Acts 1979, No. 443, §1, eff. April 1, 1980.

§1168. Perjury; malfeasance in office

A. Perjury. Any person who intentionally and knowingly either files a false sworn complaint with the board or who gives false sworn testimony before the board or panel shall, upon conviction by a court of competent jurisdiction, be guilty of the crime of perjury and subject to the penalty set forth in R.S. 14:123.

B. Malfeasance by member of the board. Any member of the board who knowingly and intentionally initiates action by the board or panel against any public servant, or person knowing such action to be false shall, upon conviction by a court of competent jurisdiction, be guilty of the crime of malfeasance in office and subject to the penalty set forth in R.S. 14:134.

Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.

§1169. Freedom from reprisal for disclosure of improper acts

A. Any public employee who reports to his agency head or the board information which he reasonably believes is a violation of any provision of law within the jurisdiction of the board or of any order, rule, or regulation issued hereunder or any other alleged acts of impropriety within any governmental entity shall be free from discipline or reprisal for reporting said acts of alleged impropriety. No employee with authority to hire and fire, supervisor, agency head, or other elected official shall subject to reprisal any public employee because of said employee's efforts to disclose such acts of alleged impropriety.

B. Any public employee who reports to a person or entity of competent authority or jurisdiction information which he reasonably believes is a violation of any law or of any order, rule, or regulation issued in accordance with law or any other alleged acts of impropriety related to the scope or duties of public employment or public office within any branch of state government or any political subdivision shall be free from discipline or reprisal for reporting said acts of alleged impropriety. No employee with authority to hire and fire, supervisor, agency head, or other elected official shall subject to reprisal any such public employee because of said employee's efforts to disclose such acts of alleged impropriety.

C.(1) In the event that any public employee is suspended, demoted, or dismissed in violation of this Section as an act of reprisal for reporting an alleged act of impropriety, such employee shall report such action to the board.

(2) An employee who is wrongfully suspended, demoted, or dismissed shall be entitled to reinstatement of his employment and entitled to receive any lost income and benefits for the period of any suspension, demotion, or dismissal.

D. Any person who violates this Section shall be subject to the same fines and penalties provided for other violations of this Chapter.


Acts 1979, No. 443, §1, eff. April 1, 1980; Acts 1995, No. 1115, §1; Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997; Acts 1999, No. 327, §1.

§1170. Ethics education

A. Each state agency shall designate at least one person who shall, with the assistance of the board, provide all public servants of that agency information relative to ethics and conflicts of interest concerning the following provisions: the Code of Governmental Ethics, the Campaign Finance Disclosure Act, the provisions of Part III of Chapter 1 of Title 24, relative to lobbying, the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, the Louisiana Lottery Corporation Law, and the Video Draw Poker Devices Control Law. The agency shall also provide instruction and information to such public servants intended to educate them about the particular ethics laws to which they are subject and the procedures by which such laws are enforced.

B. All agencies shall provide information about governmental ethics to those with whom they do business.

Acts 1996, 1st Ex. Sess., No. 64, §6, eff. Jan. 1, 1997.



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