

## **State Constitution of 1974: Article X - Sec 41-51**

### PART IV. STATE POLICE SERVICE

#### **§41. State Police Service**

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

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

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

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

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

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

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

#### **§43. State Police Commission**

Section 43.(A) Composition. The State Police Commission is established and shall be domiciled in the state capital. It shall be composed of seven members who are electors of this state, four of whom shall constitute a quorum. At least one appointed member shall be from each congressional district. No appointed member shall concurrently serve on another board or commission whose purpose is similar to that of the State Police Commission. In order to implement this requirement, every ten years beginning on the day the members of congress from newly reapportioned congressional districts take office, any vacancy that occurs on the commission shall be filled from a congressional district from which there is no commission member. Only when the membership includes a member from each congressional district may a vacancy be filled by an appointment from the state at large.

(B)(1) Appointment. The members shall be selected, as hereinafter provided, for terms of six years, after initial terms of one year, two years, three years, four years, five years, and six years for the appointed members, as designated by the governor, and six years for the elected member.

(2) No person who has served as a member of the commission for more than two and one-half terms in three consecutive terms shall be appointed or elected to the

commission for the succeeding term. This Subparagraph shall not apply to any person appointed or elected to the commission prior to the effective date of this Subparagraph, except that it shall apply to any term of service of any such person that begins after such date.

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

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

Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991; Acts 2008, No. 935, §1, eff. approved November 4, 2008, eff. December 8, 2008; Acts 2012, No. 870, §2, approved November 6, 2012, effective December 10, 2012.

#### **§44. Director**

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

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

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

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

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

#### **§46. Appeals**

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

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

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

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

Section 47.(A) Party Membership; Elections. No member of the commission and no state police officer in the classified service shall participate or engage in political activity; be a candidate for nomination or election to public office except to seek election as the classified state police officer serving on the State Police Commission; or be a member of any national, state, or local committee of a political party or faction; make or solicit contributions for any political party, faction, or candidate; or take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he desires.

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

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

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

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

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

police service as herein established. It may make recommendations with respect to employee training and safety.

(2) Veterans. The director shall accord a five-point preference in original appointment to each person honorably discharged, or discharged under honorable conditions from the armed forces of the United States who served in the Vietnam Era from July 1, 1958 through May 7, 1975, except the period of July 1, 1958 through August 4, 1964, shall apply only to those who served within the area known as the Vietnam Theater; or during a war declared by the United States Congress; or in a peacetime campaign or expedition for which campaign badges are authorized; or for at least ninety days after September 11, 2001, for reasons other than training; or during war period dates or dates of armed conflicts as provided by state law enacted by two-thirds of the elected members of each house of the legislature. The director shall accord a ten-point preference in original appointment to each honorably discharged veteran who served either in peace or in war and who has one or more disabilities recognized as service-connected by the Veterans Administration; to the spouse of each veteran whose physical condition precludes his or her appointment to the state police service; to the unremarried widow of each deceased veteran who served in a war period, as defined above, or in a peacetime campaign or expedition; or to the unremarried widowed parent of any person who died in active wartime or peacetime service or who suffered total and permanent disability in active wartime or peacetime service; or the divorced or separated parents of any person who died in wartime or peacetime service or who became totally and permanently disabled in wartime or peacetime service. However, only one ten-point preference shall be allowed in the original appointment to any person enumerated above. If the ten-point preference is not used by the veteran, either because of the veteran's physical or mental incapacity which precludes his appointment to the classified state police service or because of his death, the preference shall be available to his spouse, unremarried widow, or eligible parents as defined above, in the order specified. However, any such preference may be given only to a person who has attained at least the minimum score required on each test and who has received at least the minimum rating required for eligibility.

(3) Layoffs; Preference Employees. When a position in the classified state police service is abolished, or must be vacated because of stoppage of work from lack of funds or other causes, preference employees (ex-members of the armed forces and their dependents as described in this Section) whose length of service and efficiency ratings are at least equal to those of other competing employees shall be retained in preference to all other competing employees. However, when any function of the state police is transferred to, or when the state police is replaced by, one or more other state agencies, every preference employee in classifications and performing functions transferred, or working in the state police, shall be transferred to the replacing state agency or agencies for employment in a position for which he is qualified before that state agency or agencies appoint additional employees for such positions from eligible lists. The appointing authority shall give the commission written notice of any proposed lay-off within a reasonable length of time before its effective date, and the commission shall

issue orders relating thereto which it considers necessary to secure compliance with the rules. No rule, regulation, or practice of the commission, of any agency or department, or of any official of the state shall favor or discriminate against any applicant or employee because of his membership or nonmembership in any private organization; but this shall not prohibit the Department of Public Safety and Corrections, office of state police, or its successor, from contracting with an employee organization with respect to wages, hours, grievances, working conditions, or other conditions of employment in a manner not inconsistent with this constitution, law, or a valid rule or regulation of the commission.

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

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

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

Added by Acts 1990, No. 1106, §1, approved Oct. 6, 1990, eff. Jan. 1, 1991; Acts 2004, No. 930, §1, approved Nov. 2, 2004, eff. December 7, 2004.

#### **§49. Penalties**

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

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

#### **§50. Appeal**

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

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

#### **§51. Appropriations**

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

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

Questions and comments may be directed to [websen@legis.la.gov](mailto:websen@legis.la.gov)  
Baton Rouge, Louisiana.

Reference link:

[http://senate.legis.state.la.us/documents/constitution/Article10.](http://senate.legis.state.la.us/documents/constitution/Article10)