

2018 Regular Session

SENATE BILL NO. 376

BY SENATOR GARY SMITH

PUBLIC EMPLOYEES. Provides relative to the definition of a "governmental function".
(8/1/18)

1 AN ACT

2 To amend and reenact R.S. 42:1102(18)(a), relative to the application of the Code of
3 Governmental Ethics to certain persons; to provide for public employees; to provide
4 for the definition of "governmental function"; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 42:1102(18)(a) is hereby amended and reenacted to read as follows:

7 §1102. Definitions

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

10 * * *

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

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

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

1 employee thereof.

2 (iii) Engaged in the performance of a governmental function. The term
 3 "governmental function" shall include all of the following:

4 (aa) The administration or management of a program of a public agency
 5 by a person who receives funding from the public agency for administering or
 6 managing the program when the public agency directs or regulates the person's
 7 administration or management of the program.

8 (bb) Those government programs that the law requires to be performed
 9 by a governmental agency for the public's benefit and which are specifically and
 10 statutorily mandated governmental functions.

11 ~~(iv) Under the supervision or authority of an elected official or another~~
 12 ~~employee of the governmental entity. "Governmental function" shall not mean~~
 13 ~~the provision of goods or services without the delegated responsibility to~~
 14 ~~administer or manage a program of a public agency.~~

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

17 * * *

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Tim Prather.

DIGEST

SB 376 Engrossed

2018 Regular Session

Gary Smith

Present law provides for ethical standards for elected officials, public employees, and certain other persons including prohibited conflicts of interest involving payments from nonpublic sources, prohibited participation in transactions, prohibited contractual arrangements, prohibited gifts, abuse of office, and nepotism.

Present law provides that for purposes of the Code of Governmental Ethics, the term "public employee" means anyone, whether compensated or not, who is any of the following:

- (1) An administrative officer or official of a governmental entity who is not filling an elective office.
- (2) 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.
- (3) Engaged in the performance of a governmental function.

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

Proposed law defines the term "governmental function" to include all of the following:

- (a) The administration or management of a program of a public agency by a person who receives funding from the public agency for administering or managing the program when the public agency directs or regulates the person's administration or management of the program.
- (b) Those government programs that the law requires to be performed by a governmental agency for the public's benefit and which are specifically and statutorily mandated governmental functions.

Proposed law provides that "governmental function" will not mean the provision of goods or services without the delegated responsibility to administer or manage a program of a public agency.

Effective August 1, 2018.

(Amends R.S. 42:1102(18)(a))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Senate and Governmental Affairs to the original bill

1. Defines "governmental function" relative to the Code of Governmental Ethics.