
DIGEST

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HB 149 Engrossed

2016 Regular Session

Talbot

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

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

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

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

Proposed law provides that if the board is notified, prior to a final determination of a violation of

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

(Adds R.S. 42:1113.2)

Summary of Amendments Adopted by House

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

1. Change the phrase "public servant in state government" to "public servant in a state agency".
2. Remove the proposed prohibition on a public servant using or obligating the funds or assets of his governmental entity for promoting, achieving, establishing, or restoring a favorable public image of, or for advocacy of any agency.