

Regular Session, 2014

HOUSE BILL NO. 246

BY REPRESENTATIVE HARRISON

ELDERLY: Provides relative to the Department of Elderly Affairs, including provisions for officers and employees, rulemaking, and funding

1 AN ACT

2 To amend and reenact R.S. 36:5, 153, 154(A)(3), 155, and 156(A) and R.S. 46:931, 932(8),  
3 933(G), and 934(A) and (B) and to enact R.S. 36:151(D), relative to the Department  
4 of Elderly Affairs; to provide relative to officers and employees, rulemaking, and  
5 funding for the department; to provide that all officers and employees of the  
6 department shall be in the classified state service; to provide for rulemaking  
7 authority for the department; to provide for appropriation and allocation to the  
8 department of funds appropriated or allocated for department functions; to provide  
9 for implementation; to provide for effectiveness; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 36:5, 153, 154(A)(3), 155, and 156(A) are hereby amended and  
12 reenacted and R.S. 36:151(D) is hereby enacted to read as follows:

13 §5. Departmental officers; unclassified service

14 A. The secretary, deputy secretary, undersecretary, and assistant secretaries  
15 of departments of the executive branch of state government shall be in the  
16 unclassified service of the state.

17 B. Notwithstanding the provisions of Subsection A of this Section or of any  
18 other law to the contrary, the secretary, deputy secretary, undersecretary, and any  
19 assistant secretary and all officers and employees of the Department of Elderly  
20 Affairs shall be in the classified service of the state.

21 \* \* \*

1 §151. Department of Elderly Affairs; creation; domicile; composition; purposes and  
2 functions

3 \* \* \*

4 D. All officers and employees of the Department of Elderly Affairs shall be  
5 in the classified service of the state.

6 \* \* \*

7 §153. Secretary of elderly affairs

8 There shall be a secretary of the Department of Elderly Affairs, who shall be  
9 in the classified state civil service. The secretary shall be appointed by the governor  
10 ~~with consent of the Senate from recommendations for appointment by the Louisiana~~  
11 ~~Executive Board on Aging, and who shall serve at the pleasure of the governor at in~~  
12 accordance with civil service rules. He shall be paid a salary fixed by the governor,  
13 ~~which salary shall not exceed the amount approved for such position by the~~  
14 ~~legislature while in session~~ in accordance with civil service rules. The secretary  
15 shall serve as the executive head and chief administrative officer of the Department  
16 of Elderly Affairs and shall have the responsibility for the policies of the department  
17 except as otherwise provided by this Title, and for the administration, control, and  
18 operation of the functions, programs, and affairs of the department; provided that the  
19 secretary shall perform his functions under the general control and supervision of the  
20 governor.

21 §154. Powers and duties of secretary of elderly affairs

22 A. In addition to the functions, powers, and duties otherwise vested in the  
23 secretary by law, he shall:

24 \* \* \*

25 (3) In accordance with the Administrative Procedure Act, make, alter,  
26 amend, and promulgate rules and regulations necessary for the administration of the  
27 functions of the department, except as otherwise provided by this Title. The  
28 secretary shall exercise rulemaking authority for the department and any provision  
29 of law granting the department authority to make rules or establish standards or rates

1 for the department or granting such authority to the Louisiana Executive Board on  
 2 Aging shall be construed to grant such authority to the secretary. The rules and  
 3 policies of the Office of Elderly Affairs in effect on the effective date of this  
 4 Paragraph shall remain in effect as rules of the Department of Elderly Affairs and  
 5 such rules shall remain in effect subject to their own provisions until changed as  
 6 provided in this Paragraph.

7 \* \* \*

8 §155. Deputy secretary

9 There may be a deputy secretary of the department, who shall be in the  
 10 classified state civil service. If appointed, a deputy secretary shall be appointed by  
 11 the secretary ~~with consent of the Senate and who shall serve at the pleasure of the~~  
 12 ~~secretary~~ at in accordance with civil service rules. He shall be paid a salary fixed by  
 13 the secretary, ~~which salary shall not exceed the amount approved for such position~~  
 14 ~~by the legislature while in session~~ in accordance with civil service rules. The duties  
 15 and functions of the deputy secretary shall be determined and assigned by the  
 16 secretary. If appointed, he shall serve as acting secretary in the absence of the  
 17 secretary.

18 §156. Undersecretary; functions; office of management and finance

19 A. There shall be an undersecretary of the Department of Elderly Affairs,  
 20 who shall be in the classified state civil service. The undersecretary shall be  
 21 ~~appointed by the governor with consent of the Senate and who shall serve at the~~  
 22 ~~pleasure of the governor~~ at secretary as provided in civil service rules. He shall be  
 23 paid a salary fixed ~~by the governor, which salary shall not exceed the amount~~  
 24 ~~approved for such position by the legislature while in session~~ in accordance with  
 25 civil service rules. The undersecretary shall be directly responsible to and shall  
 26 perform his functions under the supervision and control of the secretary.

27 \* \* \*

1 Section 2. R.S. 46:931, 932(8), 933(G), and 934(A) and (B) are hereby amended and  
2 reenacted to read as follows:

3 §931. Creation; personnel

4 A. The Department of Elderly Affairs is hereby created. The department  
5 shall exercise the powers and duties set forth in this Chapter or otherwise provided  
6 by law. The department shall be administered by a secretary, who shall be in the  
7 classified state civil service. The secretary shall be appointed by the governor;  
8 ~~subject to Senate confirmation, from recommendations for appointment by the~~  
9 ~~Louisiana Executive Board on Aging. The secretary shall serve at the pleasure of the~~  
10 ~~governor~~ in accordance with civil service rules.

11 B. The secretary shall employ necessary staff to carry out the duties and  
12 functions of the department as otherwise provided in this Chapter; or as otherwise  
13 provided by law, including without limitation Title 36 of the Louisiana Revised  
14 Statutes of 1950.

15 C. All officers and employees of the Department of Elderly Affairs shall be  
16 in the classified state civil service as more specifically provided in Chapter 4 of Title  
17 36 of the Louisiana Revised Statutes of 1950.

18 §932. Powers and duties

19 The department shall have the following powers and duties:

20 \* \* \*

21 (8) ~~To~~ Through the secretary, to adopt and promulgate rules and regulations  
22 that are deemed necessary to implement the provisions of this Chapter in accordance  
23 with the provisions of the Administrative Procedure Act.

24 \* \* \*

25 §933. Louisiana Executive Board on Aging established; membership; term of office;  
26 compensation of members

27 \* \* \*

28 G. The board may ~~recommend~~ make recommendations to the governor ~~that~~  
29 ~~the secretary be replaced~~ for disciplinary action against the secretary in accordance

1 with state civil service rules. The board shall adopt rules for the transaction of its  
2 business and shall keep a record of its resolutions, transactions, findings, and  
3 determinations. A majority of members shall constitute a quorum. The department  
4 shall provide office and meeting space and staff support for the board.

5 §934. Louisiana Executive Board On Aging; powers, duties, and functions

6 A. The board shall ~~develop and implement~~ make recommendations to the  
7 secretary relative to policies and procedures pertaining to the Department of Elderly  
8 Affairs and its functions, ~~shall approve matters of policy and all~~ and to rules and  
9 regulations promulgated ~~by the board or~~ for the department that pertain to elderly  
10 affairs and voluntary parish councils on aging, shall review and make  
11 recommendations to the secretary on matters of general importance and relevance  
12 to the planning, monitoring, coordination, and delivery of services to the elderly of  
13 the state, and shall prepare and submit an annual report to the legislature and to the  
14 governor sixty days prior to the legislative session.

15 B. ~~The board shall adopt rules governing the functions of the department,~~  
16 ~~including rules that prescribe the policies and procedures followed by the board and~~  
17 ~~the department in the administration of its programs, all in accordance with the~~  
18 ~~Administrative Procedure Act.~~ The rules adopted by the board for the Office of  
19 Elderly Affairs in effect on the effective date of this Subsection shall remain in effect  
20 and shall be applicable to the board and the Department of Elderly Affairs and such  
21 rules shall remain in effect subject to their own provisions until changed as provided  
22 in ~~this Subsection~~ R.S. 36:154(A)(3).

23 \* \* \*

24 Section 2. On and after the effective date of this Act, the Department of Elderly  
25 Affairs shall be the successor of the Office of Elderly Affairs as provided in Act No. 384 of  
26 the 2013 Regular Session of the Legislature and the provisions of this Act. On and after the  
27 effective date of this Act, the commissioner of administration shall take all actions necessary  
28 to provide for the transfer of all appropriations and allocations made to the Office of Elderly  
29 Affairs to the Department of Elderly Affairs. Notwithstanding any provision of law to the

1 contrary, any appropriation or allocation of funds for any purpose, function, or program that  
 2 is assigned to the Department of Elderly Affairs by virtue of statutory enactment in the  
 3 Louisiana Revised Statutes of 1950 shall be deemed to have been made to the Department  
 4 of Elderly Affairs regardless of the entity to which such appropriation or allocation is made,  
 5 and the state treasurer shall redirect funds appropriated or allocated to any other department,  
 6 agency, office, or entity for such purposes, functions, or programs to the Department of  
 7 Elderly Affairs. The provisions of this Section shall supersede any appropriation or  
 8 allocation to any other department, agency, office, or entity for such purposes, functions, or  
 9 programs assigned to the Department of Elderly Affairs by virtue of statutory enactment.

10 Section 3. This Act shall take effect and become operative if and when the proposed  
 11 amendment of Article IV of the Constitution of Louisiana contained in the Act which  
 12 originated as House Bill No. \_\_\_ of this 2014 Regular Session of the Legislature is adopted  
 13 at a statewide election and becomes effective.

---

#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

Harrison

HB No. 246

**Abstract:** Relative to the Department of Elderly Affairs, provides relative to officers and employees, rulemaking, and funding for the department.

Present constitution (Const. Art. X) provides that the state civil service is divided into the unclassified and the classified service and that persons not included in the unclassified service are in the classified service. Provides, in part, that the unclassified service includes the heads of each principal executive department appointed by the governor and one person holding a confidential position and one principal assistant or deputy to such officers. Also provides that additional positions may be added to the unclassified service and those positions may be revoked by rules adopted by a state civil service commission. The commission has added most officers of the 20 executive branch departments to the unclassified service.

Proposed constitutional amendment (HB No. \_\_\_ ) creates the Dept. of Elderly Affairs as an executive branch department and provides for its functions and funds. Provides, in part, that all officers and employees of the department shall be in the classified state civil service, notwithstanding any provision of Const. Art. X to the contrary, and that their appointments and compensation shall be in accordance with state civil service rules.

Present law (not effective; to become effective when an executive branch department is abolished or an additional department is authorized by constitutional amendment) (R.S. 36:153, 155, and 156) provides that the secretary of the Dept. of Elderly Affairs shall be appointed by the governor with Senate consent from recommendations by the La. Executive

Board on Aging to serve at the pleasure of the governor at a salary fixed by the governor not to exceed the amount approved by the legislature in session. Provides for an optional deputy secretary and for an undersecretary over the office of management and finance of the department. Provides for appointment and setting of salary of the deputy secretary (if appointed) by the secretary and of the undersecretary by the governor, with salaries limited to the amount approved by the legislature in session.

Proposed law provides for appointment of the secretary by the governor and for appointment of the deputy secretary (if one is appointed) and the undersecretary by the secretary.

Present law (R.S. 36:5) provides that the secretary, deputy secretary, undersecretary, and assistant secretaries of departments of the executive branch of state government shall be in the unclassified service of the state.

Proposed law (R.S. 36:5 and 151(D) and R.S. 46:931) provides that, notwithstanding present law the secretary, deputy secretary, undersecretary, and any assistant secretary and all officers and employees of the Dept. of Elderly Affairs shall be in the classified service of the state. Provides that the appointment and salary of the secretary, the deputy secretary (if appointed) and the undersecretary shall be in accordance with state civil service rules. Changes provision (R.S. 46:933) authorizing the La. Executive Board on Aging to make recommendations to the governor for replacement of the secretary and provides instead that the board may make recommendations to the governor for disciplinary action against the secretary in accordance with civil service rules.

Proposed law (R.S. 36:154(A)(3), R.S. 46:932(8) and 934) provides that provisions of law authorizing the Dept. of Elderly Affairs to make rules or establish standards or rates shall be construed to mean the secretary. Removes provisions for rulemaking by the La. Executive Board on Aging and provides for the board to make recommendations to the secretary.

Proposed law provides that on and after the effective date of the Act, the Dept. of Elderly Affairs shall be the successor of the Office of Elderly Affairs as provided in Acts 2013, No. 384 and the present Act. Requires the commissioner of administration to take all actions necessary to provide for the transfer of appropriations and allocations made to the Office of Elderly Affairs to the Dept. of Elderly Affairs. Provides that, notwithstanding any law to the contrary, any appropriation or allocation of funds for any purpose, function, or program assigned to the Dept. of Elderly Affairs by statutory enactment in the R.S. shall be deemed to have been made to the Dept. of Elderly Affairs regardless of the entity to which such appropriation or allocation is made, and requires the state treasurer to redirect funds appropriated or allocated to any other department, agency, office, or entity for such purposes, functions, or programs to the Dept. of Elderly Affairs. Provides that such proposed law supersedes any appropriation or allocation made to any other department, agency, office, or entity for such purposes, functions, or programs.

Effective if and when the proposed amendment of Article IV of the Constitution of La. contained in the Act which originated as House Bill No. \_\_ of this 2014 R.S. is adopted at a statewide election and becomes effective. (Jan. 1, 2015)

(Amends R.S. 36:5, 153, 154(A)(3), 155, and 156(A) and R.S. 46:931, 932(8), 933(G), and 934(A) and (B); Adds R.S. 36:151(D))