

APPENDIX C

TEXT OF CITED LOUISIANA LAWS

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R.S. 16:2. DUTY OF DISTRICT ATTORNEY TO ACT AS COUNSEL FOR PARISH BOARDS AND COMMISSIONS

- A. The district attorneys of the several judicial districts of Louisiana, other than the parish of Orleans, shall ex officio be the regular attorneys and counsel for the police juries, parish school boards, and city school boards within their respective districts and of every state board or commission domiciled therein, including levee boards, hospital and asylum boards, education boards, and all state boards or commissions the members of which, in whole or in part, are elected by the people or appointed by the governor or other prescribed authority, except state boards and commissions domiciled at the city of Baton Rouge, parish of East Baton Rouge, and all boards in charge or in control of state institutions.
- B. Notwithstanding any other provision of this Section or any law to the contrary, nothing shall prevent the governing authorities of the parishes of St. Charles, St. John the Baptist, Ouachita, Morehouse, Calcasieu, and Vermilion or any city or parish school board in the state from each employing or retaining its own attorney to represent it generally. The employment of attorneys by said governing authorities shall relieve the district attorneys of the judicial districts serving the parishes of St. Charles, St. John the Baptist, Ouachita, Morehouse, Calcasieu, and Vermilion from any further duty of representing said governing authorities, and the employment of an attorney by any city or parish school board shall relieve the district attorney of the judicial district serving such city or parish school board from any further duty of representing such school board.
- C. The district attorneys who shall refuse or wilfully fail to perform the duties required of them by this Section or wilfully fail to render faithful and efficient services in this regard shall be deemed guilty of malfeasance and gross misconduct and be removed from office in the manner prescribed by law.
- D. Where a parish has adopted a charter for local self-government or other home rule charter and such charter provides for the employment of a parish attorney or a special attorney or counsel, the district attorney shall not be the regular attorney or counsel for such governing authority. Notwithstanding the provisions of R.S. 42:261(C) and R.S. 42:263, in a parish which has adopted a charter for local self-government or other home rule charter, if the charter so provides, the parish governing authority may retain or employ any attorney or counsel to represent it generally or retain or employ any special attorney or counsel to represent it in any special matter without the approval of the attorney general.
- E. In the parish of Lafourche, the district attorney shall ex officio and without extra compensation, general or special, be the regular attorney and counsel for the parish governing authority, the school board, and every state board or commission domiciled therein, including levee boards, hospital and asylum boards, education boards, and all state boards or commissions the members of which, in whole or in part, are elected by the people or appointed by the governor or other prescribed authority. Amended by Acts 1974, No. 479, § 1; Acts 1978, No. 588, § 1; Acts 1979, No. 324, § 1; Acts 1981, No. 728, § 1; Acts 1983, No. 184, § 1; Acts 1983, No. 475, § 1; SCR No. 86, 1983 R.S.; Acts 1985, No. 1009, § 1; Acts 2001, No. 359, § 1.

R.S. 33:386. APPOINTMENT OF MUNICIPAL OFFICIALS; BOND REQUIRED

A. At the first regular meeting of the board of aldermen succeeding each regular municipal election, the mayor, subject to confirmation by the board of aldermen, shall appoint a clerk, tax collector, except as provided for in R.S. 33:381(D), and all other necessary officers whose election is not provided for in R.S. 33:381. In the event of a vacancy, the mayor, subject to confirmation by the board of aldermen, shall appoint a successor to any such office. In making or approving such appointments and in filling vacancies, the mayor and board of aldermen shall give preference to residents of the municipality if all other considerations are equal.

B. The clerk and the tax collector shall execute bonds to the municipality in such amounts and with such surety and conditions as may be prescribed by ordinance and shall hold their offices until their successors are appointed and qualified.

C. The mayor, subject to confirmation by the board of aldermen, may appoint and fix compensation for an attorney at law for the municipality, whose duties in such capacity may include representation of all municipal officers as defined by R.S. 33:381(A) in actions against them in connection with and arising out of their functions as such officers, and other duties as prescribed by the mayor. The municipality may also employ counsel to represent its interest should the occasion require.

D. The term of the clerk, tax collector, nonelected chief of police, street commissioner, municipal attorney, and court magistrate shall end at the time of the first regular meeting of the board of aldermen succeeding each regular municipal election.

Amended by Acts 1970, No. 165, § 1; Acts 1970, No. 594, § 1; Acts 1977, No. 123, § 1; Acts 1978, No. 214, § 1; Acts 1980, No. 576, § 1; Acts 1986, No. 1076, § 1, eff. Jan. 1, 1987; Acts 1997, No. 836, § 1, eff. July 10, 1997; Acts 1997, No. 1044, § 2.

R.S. 33:1813. ADDITIONAL COUNSEL

A municipality may employ, fix the compensation for, and pay additional counsel in cases of extreme necessity.

Acts 1983, No. 364, § 1, eff. July 2, 1983.

R.S. 39:1410.60. APPROVAL OF APPLICATION; INCURRING INDEBTEDNESS

A. No parish, municipality, public board, political or public corporation, subdivision, or taxing district, and no road or subroad district, school district, sewerage district, drainage or subdrainage district, levee district, waterworks or subwaterworks district, irrigation district, road lighting district, harbor and terminal district, or any other political subdivision, taxing district, political or public corporation, created under or by the constitution and laws of the state shall have authority to borrow money, incur debt, or to issue bonds, or other evidences of debt, or to levy taxes, or to pledge uncollected taxes or revenues for the payment thereof, where they are authorized by the constitution or laws of the state so to do, without the consent and approval of the State Bond Commission.

B.(1) The provisions of this Section shall not apply to purchases made in the ordinary course of administration on terms of credit not to exceed ninety days.

(2) In order to facilitate the review process for approval of financing of the purchases of movables, the State Bond Commission shall adopt rules and regulations to provide for an expedited review procedure for certain categories of such financing and shall determine which financing is to be reviewed under the expedited procedure.

C.(1) As used in this Section, the term "debt" or "evidence of debt" shall not include a lease of a movable or an installment purchase agreement financing the purchase of a movable if the lease or installment purchase agreement contains a nonappropriation clause, and does not contain an anti-substitution or penalty clause; provided that if such lease or installment purchase agreement is entered into in

conjunction with the issuance of bonds, notes, certificates, or other obligations which would otherwise be required to be approved by the State Bond Commission, State Bond Commission approval of such financing transaction shall continue to be required.

(2) In order to facilitate the review process for approval of leases of movables that are not excluded from the term "debt" as provided in this Section, the State Bond Commission shall adopt rules and regulations to provide for an expedited review procedure for certain categories of such leases and shall determine which leases are to be reviewed under the expedited procedure.

Acts 1990, No. 500, § 1, eff. July 18, 1990; Acts 1991, No. 653, § 1; Acts 1997, No. 360, § 1; Acts 1999, No. 1364, § 1.

R.S. 42:261. DISTRICT ATTORNEYS; COUNSEL FOR BOARDS AND COMMISSIONS

A. Except as provided by Subsection C of this Section or as otherwise provided by law, the district attorneys of the several judicial districts other than the parish of Orleans shall, ex officio and without extra compensation, general or special, be the regular attorneys and counsel for the parish governing authorities, parish school boards, and city school boards within their respective districts and of every state board or commission domiciled therein, the members of which, in whole or in part, are elected by the people or appointed by the governor or other prescribed authority, except the state boards and commissions domiciled at the city of Baton Rouge, and all boards in charge or in control of state institutions.

B. Except as provided by Subsection C of this section or as otherwise provided by law, all legal services for parish governing authorities, parish school boards, city school boards and all state boards and commissions, including levee boards, hospital and asylum boards, educational boards and dock boards, the members of which, in whole or in part, are elected by the people or are appointed by the governor or other prescribed authority, in reference to the issuance of bonds, notes or other evidences of indebtedness, whether in the original instance or for refunding purposes, shall be under the supervision, control and authority of the attorney general.

C. Notwithstanding the provisions of Subsections A and B of this section or of any other law, the governing authority of any parish listed in the 1970 decennial federal census as having a total population of between 70,000 and 80,000 may retain, select and/or employ, on a full or part time basis or on retainer, an attorney to serve as its regular or special attorney and in such case may fix and pay the salary or compensation of said attorney. The employment of an attorney under this authorization relieves the district attorney of responsibility.

D. (1) Except as otherwise permitted by this Section it shall be unlawful for any parish governing authority or state board or commission to retain or employ for any compensation whatever any attorney or counsel to represent it generally, or except as provided in R.S. 42:263, to retain or employ any special attorney or counsel for any compensation whatever to represent it in any special matter, or pay any compensation for any legal services whatever, provided that the board of commissioners of the port of New Orleans shall select its own attorney.

(2) The provisions of this Subsection shall not apply to the board of assessors of the parish of Orleans, the salary of whose attorney is paid by the city of New Orleans, nor shall it apply to the Board of Liquidation of the City Debt created by Act 110 of 1890.

E. (1) Any party who files suit against any duly elected or appointed public official of this state or of any of its agencies or political subdivisions for any matter arising out of the performance of the duties of his office other than matters pertaining to the collection and payment of taxes and those cases where the plaintiff is seeking to compel the defendant to comply with and apply the laws of this state relative to the registration of voters, and who is unsuccessful in his demands, shall be liable to said public official for all attorneys fees incurred by said public official in the defense of said lawsuit or lawsuits, which attorneys fees shall be fixed by the court.

(2) The defendant public official shall have the right, by rule, to require the plaintiff to furnish bond as in the case of bond for costs, to cover such attorneys fees before proceeding with the trial of said cause.

F. Notwithstanding the provisions of this Section or any law to the contrary, the Louisiana Board of Chiropractic Examiners may retain and employ counsel as specifically provided in R.S. 37:2804(F), and the attorney general shall be relieved of his responsibility to serve as attorney for the board, in such instances as provided therein.

G. Notwithstanding any other provision of this Section or any other law to the contrary, nothing shall prohibit the governing authorities of the parishes of St. Charles, Ouachita, Morehouse, and Vermilion from each employing or retaining its own attorney to represent it generally; however, except in those specific instances where expressly allowed by law, no payment to such attorney so employed or retained shall be made on a contingent fee or other percentage basis. The employment of attorneys by said political subdivisions of the aforementioned parishes shall relieve the district attorneys of the judicial districts serving the aforesaid parishes from any other duty of representing said political subdivisions of said parishes.

H. Notwithstanding the provisions of this Section or any other law to the contrary, the Recreation and Park Commission for the parish of East Baton Rouge may retain and employ counsel as otherwise more specifically provided in R.S. 16:2.1 and the district attorney shall be relieved of his responsibility to serve as attorney for the commission only in such instances as provided therein.

I. Notwithstanding any other provision of this Section or any other law to the contrary, and as a further exception to the general prohibition contained in this Section, any hospital service district created by or pursuant to state law may employ or retain its own attorney, the compensation of said attorney to be fixed and paid by the board of said district, in which event the district attorney of the judicial district in which the hospital service district is domiciled shall be relieved of the duty of representing said hospital service district.

J. Notwithstanding the provisions of this Section or of any other laws to the contrary, the Natchitoches Parish School Board is hereby authorized to select its own attorney to serve as general counsel of said board, the compensation of the attorney to be fixed and paid by the board. The employment of an attorney by the school board shall relieve the district attorney of the judicial district serving Natchitoches Parish from any duty to represent the school board.

K. Notwithstanding the provisions of this Section or any law to the contrary, the Louisiana Student Financial Assistance Commission may retain and employ counsel as specifically provided in R.S. 17:3025 and the attorney general shall be relieved of his responsibility to serve as attorney for the commission only in such instances as provided therein. The compensation of said counsel shall be fixed and paid by the commission with the approval of the governor.

Amended by Acts 1952, No. 127, § 16; Acts 1952, No. 264, § 1; Acts 1960, No. 304, § 1; Acts 1960, 2nd Ex. Sess., No. 5, § 1; Acts 1964, No. 7, § 1; Acts 1974, No. 479, § 1; Acts 1974, No. 696, § 1; Acts 1976, No. 140, § 1; Acts 1976, No. 236, § 1; Acts 1978, No. 315, § 2; Acts 1978, No. 588, § 2; Acts 1978, No. 612, § 1; Acts 1979, No. 324, § 2; Acts 1979, No. 507, § 1; Acts 1980, No. 835, § 1; Acts 1981, No. 734, § 1; Acts 1982, No. 84, § 1; Acts 1983, No. 184, § 2; Acts 1983, No. 475, § 2, 3; Acts 1987, No. 267, § 2; Acts 1988, No. 729, § 1; Acts 1999, No. 384, § 1.

R.S. 42:263. RESOLUTION REQUESTING SPECIAL COUNSEL

A. No parish governing authority, levee board except as provided in Subsection B hereof, parish school board, city school board, or other local or state board shall retain or employ any special attorney or counsel to represent it in any special matter or pay any compensation for any legal services whatever unless a real necessity exists, made to appear by a resolution thereof stating fully the reasons for the action and the compensation to be paid. The resolution then shall be subject to the approval of the attorney general and, if approved by him, shall be spread upon the minutes of the body and published in the official journal of the parish.

B. Notwithstanding the provisions of Subsection A of this Section or R.S. 42:264, the governing boards of the Cane River Levee and Drainage District, the Campti-Clarence Levee District, the Natchitoches Levee and Drainage District, the Red River Levee and Drainage District, the Fifth Louisiana Levee District, and the Nineteenth Louisiana Levee District may retain or employ special counsel as needed

and without the approval of the attorney general.

C. Notwithstanding the provisions of Subsection A of this Section or R.S. 42:264, the Board of Commissioners of the Black Lake Bayou Recreation and Water Conservation District of Red River Parish may retain or employ general or special counsel as needed and without the approval of the attorney general.

Amended by Acts 1979, No. 78, § 1; Acts 1982, No. 570, § 2.