



ON THE BALLOT

A Report from the Bureau
of Governmental Research

Issues on the Ballot for October 2, 2010

ON OCTOBER 2, Louisiana voters will consider two constitutional amendments. In addition, Orleans Parish voters will consider two charter amendments.

The two statewide constitutional amendments pertain to the convening date of the State Legislature and the civil service status of employees of the Governor's Office of Homeland Security and Emergency Preparedness. The propositions in Orleans Parish would reconfigure the governance of City recreation services and facilities, and adjust the City Council membership on the Sewerage & Water Board.

In this report, BGR provides analysis of these propositions, beginning with the Orleans charter amendments, and takes a position on each.

NEW ORLEANS CHARTER AMENDMENT: RECREATION

What It Would Do

The proposed amendment to the Home Rule Charter of the City of New Orleans would eliminate the City's Department of Recreation, commonly known as the New Orleans Recreation Department (NORD), and create the New Orleans Recreation Development Commission. Though not expressed in the charter language itself, the legislative intent is to transfer the duties and responsibilities of NORD to the new commission.

The amendment would also eliminate a provision requiring the Department of Parks and Parkways to designate portions of parks and other areas under its control for NORD activities. Parks and Parkways' other charter functions, such as grass cutting and tree trimming on public grounds, would remain intact.

Background

In 1946, in order to improve coordination and efficiency in recreational services, the City eliminated its Playground Commission and other entities, and consolidated their functions into a

new City department, NORD.¹ The City then embarked on a wide-reaching building program and increased recreation funding significantly. The department soon won national praise for its outstanding recreational program.

Through the 1970s and early 1980s, NORD's recreational program thrived. City investments in NORD held strong, helped by the oil-rich economy. In addition, NORD shared in the substantial federal funding that flowed into City coffers. But in the mid-1980s, NORD began to decline. The city's economy and its tax revenues collapsed in the Oil Bust era. The city lost population to suburban parishes, which further weakened revenues. Federal funds also declined dramatically, shifting most of the cost of funding recreation to local citizens. Between 1985 and 1991, the cash-strapped City cut NORD's budget by two-thirds.²

Today it is widely agreed that NORD is a dysfunctional department in serious decline. The symptoms include frequent turnover of NORD directors, deteriorating facilities, poor maintenance of fields and parks, and inadequate programming.³ Contributing to these woes are inadequate funding and a structural problem – the division of recreation-related responsibilities between two departments, NORD and the Department of Parks and Parkways. Parks and Parkways designates park areas for NORD's use and provides grounds and tree maintenance at NORD facilities.

An independent study conducted in 2008 recommended that the City address NORD's problems by establishing a special district governed by an independent commission to manage all recreation-related services and facilities.⁴ An advisory committee formed by the City Council also recommended the formation of

1 Bureau of Governmental Research, *A Summary of the Bureau's Recommendations for Improved Government in New Orleans*, 1946.

2 Unadjusted for the effects of inflation, NORD's budget declined from \$6.2 million in 1985 to \$2.2 million in 1991. Put in 2010 dollars, the budget dropped from \$12.5 million in 1985 to \$3.5 million in 1991. The 2010 adopted budget for NORD is \$5.3 million. BGR calculations based on City of New Orleans Operating Budgets, various years.

3 BWR Corp., *Best Practice Study of Municipal Recreation Departments*, prepared for The Afterschool Partnership of Greater New Orleans, July 2008. The study found that NORD had 12 directors in the 30-year period from 1978 to 2008.

4 Ibid.

a special district, governed by an independent commission, for City playgrounds and recreation.⁵ Both the study and the advisory committee recommended establishing a commission to operate NORD's programs and fully control NORD's playgrounds and facilities, including those now controlled by Parks and Parkways. Both recommended leaving responsibility for parks and green spaces not used by NORD with Parks and Parkways.

The advisory committee also called for a dedicated source of public funding based on an increased property tax millage, and for giving the commission the ability to raise private donations.⁶

Before the current Mayor took office, the City Council introduced a charter amendment to create a recreation commission. It also introduced a proposal to increase property taxes to benefit recreation. After negotiations with the new administration, the City Council withdrew both amendments. Subsequently, it introduced and approved the charter amendment now before voters. It took no further action on the tax proposition.

Overview of the Proposed Amendment

The charter amendment would give the recreation commission the powers and duties set forth in the amendment and others that may be set forth by ordinance and in cooperative endeavor agreements. The amendment itself addresses the ownership of property, the management of funds and taxation. It allows the commission to acquire and dispose of property in compliance with the charter and public bid laws. Except in the case of leases or other arrangements for the use of private property, the City would own all property that the commission acquires.

The commission would administer any funds appropriated by the City Council, as well as any revenues the commission may generate. It would be allowed to accept donations (subject to certain limitations) and to retain legal counsel.

The charter amendment would place two broad prohibitions on the commission. First, the commission would not have the power to tax or exercise "the police power."⁷ Second, the commission would not be able to impose a financial obligation on the City without council approval.

The amendment would set general parameters for the composition of the commission and leave the details of membership to

⁵ *Recommendations of the New Orleans Recreation Community Advisory Panel*, presented to the New Orleans City Council, August 28, 2009.

⁶ Ibid.

⁷ The police power refers to the Constitutional authority provided to states and delegated to local governments to impose laws and regulations to protect generally the health, safety, morals and welfare of their citizens.

an ordinance. It would provide for a commission of 13 members, all of whom would have to be city voters and residents. It would give the Mayor, with the approval of the City Council, the power to appoint the members. The terms of the members would be set at five years initially, and then staggered following the expiration of the initial terms. Membership qualifications and the staggering of terms would be spelled out in the ordinance. In developing the ordinance, the council would be required to consider factors such as "diversity, geographic location, relevant skills and any other expertise beneficial to the operation of the recreation facilities and programs for the City."

The commission would be subject to certain administrative requirements. It would have to submit its annual budgets to the Mayor and Chief Administrative Officer in accordance with the charter; submit an independent annual financial audit to the Mayor, City Council and Inspector General; and comply with State open meetings and public records laws.

On Sept. 2, the City Council adopted, subject to voter approval of the charter amendment, an ordinance addressing the commission's functions, commission membership composition, commission members' terms and certain organizational matters of the commission. The ordinance also provides for the creation of a new fund-raising foundation to support the commission.

Analysis and Impact

The following analysis examines the key issues related to the proposal before voters.

Focus on Recreation. Currently, NORD is one of many departments under the Mayor's purview. For many years, it has not received appropriate attention, and its needs, particularly for increased funding, have taken a back seat to other City priorities. Proponents maintain that replacing NORD with a commission would provide more focus and allow for consistent attention to recreation functions. This would allow it to develop and implement a long-term vision and plan.

The focus could be provided within the existing structure by a mayor who makes recreation a priority. Proponents argue, however, that the City has not made recreation a priority for the past 25 years. Furthermore, solving NORD's problems will require a sustained effort extending beyond the tenure of any one mayor. It will also require the support of the City Council.

Stable Leadership. Proponents view the commission structure as a way to ensure greater stability in recreation leadership. NORD's directors have changed with each mayoral administration since 1978, and often more than once in each administration. Proponents point to mayoral "politics" as the culprit. They

believe that placing recreation under an independent Commission will enable the City to attract and retain better leadership.

That said, the number of turnovers far exceeds the number of changes in administration since 1978, raising a question as to whether “politics” is the root cause of the problem.

Adequate Public Funding. As with any public endeavor, successful parks and recreation programs require funding. This is, in the opinion of some, more important than whether a recreation agency is a department of government or an independent entity. Some have expressed concern that inadequate funding for City recreation will undermine the successful implementation of a new commission. Proponents recognize the importance of funding and note that the Mayor and the City Council are currently discussing possibilities.

Many successful recreation agencies have significant dedicated funding streams. Proponents maintain that voters are more likely to support an increase in such funding for recreation if the funds are administered by an independent agency, rather than a City department.

Attracting Private Donations. Since Hurricane Katrina, NORD has received private grants and donations of services to restore a number of playgrounds and facilities. Proponents believe that the creation of a commission, coupled with a new nonprofit fund-raising foundation, could increase private donations to City recreation. They argue that potential donors would feel more comfortable supporting a stable commission that could provide long-term stewardship of their investments than a City department with frequent leadership turnover.

The ordinance adopted Sept. 2 calls for the City to create the New Orleans Recreation Development Foundation to serve as a fund-raising body to support the new commission. Its initial board members would be the three co-chairmen of the City Council’s advisory committee on NORD.⁸ These members would determine the size of the foundation’s board and appoint additional members. As discussed below, the chairman of the foundation (or his designee) would also be a member of the recreation commission. The foundation would be subject to Louisiana’s open meetings and public records laws.

The future role of Friends of NORD, Inc., the private, nonprofit fund-raising organization that has assisted NORD since 1994, has not been determined. The organization has indicated it is in full support of both the new commission and the newly created foundation. It is in discussions with the City about its future role.

⁸ The three co-chairmen are Roderick West, Roy Glapion and R. Justin “Bobby” Garon.

Commission Composition. As noted previously, the proposed charter amendment calls for an ordinance to spell out the details of commission membership. On Sept. 2, the City Council adopted such an ordinance, directing the Mayor to appoint, with City Council approval, eight individuals chosen by “nominating entities” and five others who are voters and city residents, one from each council district.⁹

The nominating entities would consist of: the Mayor, the Chief Administrative Officer, the Deputy Mayor of Operations, the City Council member who chairs its Youth and Recreation Committee, the Superintendent of the Recovery School District, and the chairmen of the Orleans Parish School Board, City Planning Commission and New Orleans Recreation Development Foundation. Each nominating entity has the option of nominating himself.

The five citizen members must possess expertise in arts or culture, sports, accounting or finance, business, or law, or must be a “consumer of activities” of the recreation commission. Examples of such consumers include a coach of a youth sports team, a parent or guardian whose child participates in recreation activities, a youth sports booster club member or a person experienced in providing cultural or recreational programs to senior citizens. The ordinance also requires that the commission choose the chair and other officer positions from among the five citizen members.

The commission composition in the ordinance differs significantly from that recommended by the council’s advisory committee. The advisory committee proposed a 12-member commission consisting of 10 citizens nominated by the Mayor and City Council and selected by local university presidents, as well as appointments by the New Orleans Saints and New Orleans Hornets.

Some have expressed concern that the involvement of elected officials will increase exposure to political manipulation. Proponents counter that the presence of elected officials increases accountability to voters. They also argue that the composition set forth in the ordinance will facilitate coordination of City recreation services and facilities with local public schools and its planning efforts.

Both the charter amendment and the ordinance are open to interpretation on key points. As noted above, the amendment gives the Mayor, with the concurrence of the City Council, the power to appoint all the commission members. It also calls on the City Council to set, by ordinance, parameters for board composition. These parameters can circumscribe the Mayor’s appointment

⁹ New Orleans City Council, Ord. Cal. No. 28,124.

power, or they can leave the Mayor with broad discretion and control of the appointment process.

The ordinance adopted by the City Council attempts to limit the Mayor's control by providing for both discretionary appointments from among the citizenry and automatic appointments from "nominating entities" such as the School Board, the RSD and the Planning Commission. Unfortunately, the ordinance is unclear as to whether or not the Mayor must accept the first choice of "nominating entities." If not, then the Mayor could keep rejecting nominees until the nominating entity produces a name that he favors.

Finally, BGR notes that the limitations on the Mayor's appointment powers set forth in the ordinance are not immutable. The City Council could at any time pass an ordinance that eliminates the nominating process and leaves the appointment power solely with the Mayor. Consolidating control in the hands of the City's chief executive would make the commission vulnerable to the mayoral politics that the amendment's proponents cite as a problem with NORD. A future charter amendment modifying the appointment provision would be needed to address this risk.

Separation of Functions. The City currently separates the delivery of recreation services from the maintenance of the playgrounds and other areas in which those services are delivered. According to the National Recreation and Park Association, this is an unusual and potentially problematic arrangement because it divides responsibilities for key components of the City's recreation function. The best practice is to place the responsibility for all elements of recreation service delivery under the same management. Both the 2008 study of NORD and the City Council's advisory committee have recommended combining recreation services and facilities under one entity.

Accomplishing this is one of the reasons for the charter amendment. While the amendment would not mandate consolidation, it would allow it. The ordinance adopted Sept. 2 addresses consolidation by directing the commission not only to manage and operate the City's recreational facilities, but also to maintain them.

Consolidating responsibility for all aspects of recreation in one entity would eliminate interdepartmental coordination problems relating to grounds and facility maintenance. However, the consolidation – which would leave the Department of Parks & Parkways responsible for non-recreation areas of parks – might not go far enough. By splitting between two agencies the upkeep of parks that contain recreation areas within them, it could open the door to new inefficiencies. In addition, it may be missing the opportunity for a more comprehensive approach to the use of public spaces. However, these issues can be addressed, to some extent, through a cooperative endeavor agreement.

It should be noted that the model frequently cited by proponents of the charter proposition – Baton Rouge's recreation commission, known as BREC – has a significantly broader scope than what the charter proposition contemplates for New Orleans. In addition to playgrounds, BREC's portfolio includes green spaces of various other types, such as large and small parks, conservation areas, historic sites, a nature center and the Baton Rouge Zoo.¹⁰

Technical Weaknesses. Upon voter approval, the brief chapter governing NORD and stating its core functions will be deleted from the charter.¹¹ The new chapter creating the commission does not restate these functions as commission responsibilities or otherwise provide for their transfer to the commission. Only the language appearing on the ballot (which does not become part of the charter) indicates that this is the intent.

In fact, the new chapter does not even state the basic purpose or functions of the new commission, leaving this to ordinances and cooperative endeavor agreements. Once the amendment is adopted, the only allusion in the charter to the purpose of the commission will be its name.¹² However, the companion ordinance passed by the City Council on Sept. 2 provides direction as to its functions and structure.

BGR Position

FOR. The proposed recreation commission would provide more stable, long-term direction for City recreation. This would allow much-needed reforms to take hold and be sustained. It would also facilitate private fund raising. While the Mayor and the City Council must still address funding problems, voters should take the first step by creating the basic vehicle for delivering future reforms.

10 The Recreation & Parks Commission for the Parish of East Baton Rouge, www.brec.org, accessed on August 23, 2010.

11 Regarding NORD's current functions, Section 4-1001 of the charter provides that NORD, headed by a recreation director, shall: plan, supervise, and conduct a comprehensive and coordinated program of cultural and physical recreation; promote cooperative planning with public and private agencies concerned with recreation; manage and operate all recreational facilities, except as otherwise provided in the charter; and perform other duties required by the charter or assigned in writing by the Mayor.

12 The proposed amendment also contains incorrect cross-references to other portions of the charter. It states that the commission "shall prepare and transmit its operating and capital budgets to the Mayor and Chief Administrative Officer in accordance with Section 6-101 and Section 6-104 of this Charter." The reference to 6-101 should be to 6-102. In addition, the proposed amendment requires an independent audit in accordance with Section 6-107. The audit requirement is set forth in 6-108 of the charter. The charter amendment language was approved by New Orleans City Council Ord. 23998 MCS, adopted June 1, 2010.

NEW ORLEANS CHARTER AMENDMENT: S&WB MEMBERSHIP

What It Would Do

The City's charter currently requires that the City Council's two at-large members and a district member appointed by the council serve on the Sewerage & Water Board (S&WB). The proposed amendment would eliminate the requirement that both at-large members serve. Instead, it would allow the City Council to appoint three members, only one of whom must be at-large.

Analysis

The S&WB, an independent board created by the State Legislature in 1899, is charged with construction, operation and maintenance of New Orleans' sewerage and water systems and most of the drainage system.¹³ Currently, the charter requires that the S&WB consist of the Mayor, the two at-large members of the City Council, one district council member appointed by the council, two members of the Board of Liquidation, City Debt, and seven citizen members selected by the Mayor.

The proposed charter amendment would give the City Council greater flexibility in making appointments. It would not prevent both at-large council members from serving on the S&WB.¹⁴

The City Council voted unanimously to place the proposed amendment on the ballot. Council members asserted that it would allow for more informed representation. In their view, district members are more aware than at-large members of the challenges facing the S&WB, because constituents typically go to district council members with problems related to the entity.

The countervailing argument is that at-large members have the advantage of a citywide perspective and responsibility. They have less temptation than a district council member to focus disproportionately on, and give priority to, the needs of a specific geographic area. Mitigating the risk of parochialism is the continuing presence of at least one at-large council member, along with the fact that the council's three members are a small portion of the 13-member board.

There is a very practical argument in favor of the change. Serving as a member of the S&WB, and doing it well, is a time-consuming commitment. If a member serving *ex officio* is overextended or uninterested in serving on the board, the quality of representation can suffer. Allowing the council more flexibility in choosing board members would help to address this problem.

13 "A Historical Look at the Sewerage and Water Board," www.swbno.org/history_history.asp.

14 In June, the State Legislature passed companion legislation that would allow for a corresponding change in State law.

The two at-large council members also serve on the Board of Liquidation, City Debt, which oversees the bonds issued by the S&WB. However, the Board of Liquidation does not foresee any problem with the charter change.

BGR Position

FOR. To make the most of its role on the S&WB, the City Council should have greater freedom in deciding which of its members serve on the board.

CONSTITUTIONAL AMENDMENT NO. 1: THE LEGISLATURE'S SCHEDULE

What It Would Do

The proposed constitutional amendment would move up the convening dates for the State Legislature by two to three weeks. The legislature would convene on the second Monday in March (up from the last Monday in March) in even-numbered years and on the second Monday in April (up from the last Monday in April) in odd-numbered years. The proposed amendment would also move the effective date of laws enacted by the legislature from August 15 to August 1, to correspond with the altered convening dates. The adjournment date of the legislature would also move earlier in tandem with the new start dates. The length of regular legislative sessions would remain the same as now: no more than 60 days during a period of 85 calendar days in even-numbered years and no more than 45 days during a period of 60 calendar days in odd-numbered years.

If approved, the amendment would go into effect on Jan. 1, 2012.

Analysis

Louisiana's constitution tasks the legislature with the responsibility of passing a balanced budget for the State each year.¹⁵ To ensure continuity of funding, the budget must be passed by the legislature and approved by the Governor before the start of the State's fiscal year on July 1.

The legislature's schedule can run almost to the start of the State's fiscal year. The latest adjournment date in even-numbered years is June 24, while in odd-numbered years it is June 29. This leaves inadequate time to convene an extraordinary session to pass a budget for the upcoming fiscal year if the legislature fails to do so in the regular session, which nearly happened this year.¹⁶ Proponents of the amendment assert that moving the convening date up by a

15 Louisiana Constitution, Art. 3, Sec. 16 and Art. 7, Sec. 10.

16 By law, the Governor must issue a proclamation at least seven days in advance of the beginning of any extraordinary session. Louisiana Constitution, Art. 3, Sec. 2, Paragraph B.

couple of weeks would address this timing problem.

Louisiana's legislature typically goes into session later than any other state legislature; most legislatures convene in January.¹⁷ The amendment's sponsor originally proposed bringing the Louisiana Legislature's starting date closer to those of other states. During debate, however, State legislators rejected the idea of convening that early.

The schedule adjustment that emerged from negotiations is so slight that it would appear to provide only scant relief. Still, proponents believe that the few extra weeks will provide important breathing room in dealing with budgetary issues before the end of the fiscal year.

Opponents of the amendment believe that adopting the budget earlier could lead to inaccurate results, since revenue estimates on which the budget is based are typically adjusted in May after most State tax returns have been filed. They also claim the escalated start date would make it more difficult for legislators to find temporary housing in Baton Rouge because of Louisiana State University's academic calendar. However, this argument is hard to understand, since the university's calendar already overlaps with the legislature's schedule in both odd-numbered and even-numbered years.¹⁸

Opponents assert that the new dates would burden those legislators who are accountants by intruding into the tax season. The countervailing argument is that the legislature's convening date will inevitably conflict with the private careers of some lawmakers. The legislature must act in the best interest of the State as a whole, not based on what is most convenient for a few of its members.

Finally, this amendment is a good example of a problem plaguing Louisiana: year after year, there are simply too many amendments of relatively minor importance put before Louisiana voters. In this case, because the convening dates of the legislature are strictly set down in the constitution, they can only be changed by a constitutional amendment. A more appropriate amendment would be one that allows the legislature to set the convening dates by statute.

BGR Position

FOR. Giving legislators more breathing room to pass a budget before the beginning of the next fiscal year is desirable.

17 "Legislature Calendars U.S. States," National Conference of State Legislatures, www.ncsl.org/default.aspx?tabid=13524 and www.ncsl.org/default.aspx?tabid=18630.

18 Spring semester classes at LSU generally end in the first week of May, with commencement following in mid-to-late May. LSU Academic Calendars for 2008-2009, 2009-2010, 2010-2011.

CONSTITUTIONAL AMENDMENT NO. 2: GOHSEP EMPLOYEES

What It Would Do

Currently, employees of the Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) do not have civil service protection. The amendment would constitutionally enshrine the employees' current unclassified status, cementing the Director of GOHSEP's control over the hiring and firing of GOHSEP employees.

Background

Following Hurricane Katrina, the State Legislature in 2006 created GOHSEP to give the Governor more direct control over disaster preparedness and responsiveness. Before that, Homeland Security and Emergency Preparedness were part of the State Military Department. The Louisiana National Guard oversaw these operations.

At the time that homeland security employees were transferred from the Military Department to GOHSEP, all of them were in the unclassified State civil service. The law effecting the transfer stipulated that they would remain unclassified in the Governor's Office.¹⁹ The Louisiana Civil Service Commission filed a lawsuit challenging the constitutionality of that provision. The Commission contended that the legislature did not have the constitutional authority to determine which state employees are unclassified.²⁰ The proposed constitutional amendment would render the Commission's legal objections moot.

State Civil Service. The Louisiana Constitution establishes a civil service system for State officeholders and employees. The service is divided into the classified and unclassified service. All Louisiana governmental employees fall into one of these categories.

Unclassified employees serve at the pleasure of the appointing authority for which they work and can engage in political activity. They can be fired at will, subject to the general State and federal laws governing the rights of employees. Classified employees, on the other hand, are protected by Louisiana's Civil Service system. The system regulates the firing, hiring and disciplining of such employees. Approximately 60% of State government employees are classified.²¹

Employees are classified unless they fall into one of the 12 unclassified categories set forth in the Louisiana Constitution or

19 Acts 2006, 1st Ex. Session, No. 35.

20 *Smith v. Division of Administration*, 362 So.2d 1101, (La. 1978).

21 See www.civilservice.la.gov/OtherInfo/HRMetrics/service%20demographics.pdf.

hold a position added to the unclassified service by the Civil Service Commission.²²

Unclassified positions include members of the State's military and naval forces and "employees, deputies, and officers ... of the offices of the governor." The Louisiana Supreme Court has interpreted this category to include only senior staff, such as the heads of executive branch agencies and their immediate subordinates, rather than every employee at work in the executive branch.²³

GOHSEP. The history of the State's emergency preparedness agencies is complicated. In 1974, the legislature placed responsibility for the State's emergency preparedness operations in the Military Department. In 1976, the legislature transferred those duties to the Department of Public Safety. In 1990, it moved them back to the Military Department. All duties relating to emergency preparedness remained in the Military Department until 2006 when the legislature created GOHSEP.

One aspect of this history is in dispute. GOHSEP claims that all emergency preparedness employees have been unclassified since 1974. The Civil Service Commission, however, maintains that most employees were classified from 1976 until 1990, when the responsibility was transferred back to the Military Department. Following the move, the Civil Service Commission treated all subsequently hired emergency preparedness employees as members of the unclassified service. It states that it did this so that the Military Department would not have to abide by both military and civil service personnel rules. GOHSEP's employees have been unclassified since GOHSEP's creation in 2006. GOHSEP currently employs 164 individuals in permanent positions and 295 in temporary positions.

Analysis

Proponents of the amendment argue that, due to the nature of emergency preparedness and homeland security operations, employees must work long hours, be on call 24 hours a day and be ready to move around the State at a moment's notice. They assert that, due to the unpredictable nature of GOHSEP's work, GOHSEP's director must be at liberty to hire employees who are willing to meet the agency's extraordinary requirements and to remove those who are not. Having the ability to employ individuals with the right capability and experience and to remove those that demonstrate a deficiency is essential to effective performance in an emergency situation. In their view, the bureaucratic processes of the Civil Service Commission would impede the agency's ability to respond effectively in an emergency. Opponents counter that many State agencies with employees in the civil service system respond ef-

fectively to statewide and local emergencies.

Opponents claim that the amendment could open the way for GOHSEP employees to become political pawns. Each governor would have the authority to completely turn over the agency's personnel and place inexperienced political supporters or friends in jobs for which they are not qualified. Citizens would pay the price in times of emergency. In addition, at-will employees, fearful of losing their jobs, might be hesitant to provide frank strategic reports if their assessments contradict the Governor's plans.

Amendment supporters hold that it would not be in a governor's best political interests to turn over emergency operations to incompetent cronies. The office requires specific expertise in sensitive areas such as terrorism, disaster relief and public security. The agency is currently staffed with many former Marines, National Guardsmen and other servicemen, as well as Louisiana police – the trained security personnel needed for disaster readiness.

Opponents point out that the Civil Service Commission regulates the pay of classified government employees and, in doing this, attempts to ensure that pay level is commensurate with the employee's experience, duties and responsibilities. They fear that without Civil Service oversight, pay parity will be lost and pay levels could spiral upwards.

Finally, opponents worry that leaving GOHSEP employees unclassified could lead to corruption in the procurement process for GOHSEP projects. GOHSEP's budget currently exceeds \$1 billion, much of which comes from federal funding.²⁴ They are concerned that GOHSEP employees installed by the Governor could nudge lucrative contracts toward his supporters. Proponents counter that civil service oversight will not affect contracting practices and GOHSEP is required by law to abide by the same procurement process as other State agencies. The management of federal grant funds is closely reviewed by the Louisiana Legislative Auditor and auditing agencies of the federal government. In their view, this minimizes the chance for corruption in the contracting process.

BGR Position

AGAINST. GOHSEP employees are vital to the State's disaster readiness, and they are entrusted with the safety and security of Louisiana's citizens. They are entitled to the protection from political pressures afforded to classified State employees.

²² Louisiana Constitution, Art. 10, Sec. 2.

²³ *Smith v. Division of Administration*, op. cit.

²⁴ Louisiana Executive Department Budget, for the fiscal year ending June 30, 2011.



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