A WORD ABOUT POLITICAL PROHIBITIONS UNDER THE LOUISIANA MUNICIPAL FIRE AND POLICE CIVIL SERVICE LAW

There appears to be a growing trend lately within the Municipal Fire and Police Civil Service System in which employees of the classified service may incorrectly believe that engaging in otherwise prohibited political activities may be acceptable when the activities are considered to be on behalf of an organized group of classified employees.

Some may point to the decision of the Fourth Circuit Court of Appeal of Louisiana under ***Canatella v. Department of Civil Service*** (592 So2d 1374 (La.App. 4 Cir. 1992) as support for engaging in such political activity. However, in a recent decision, the United States Court of Appeals for the Fifth District upheld the appointing authority's action to terminate the employment of five police officers with the Kenner Police Department for violation of political prohibitions. The police officers, each officers of a local police association, were determined to have communicated the association's endorsement of and support for a political candidate.

The Office of State Examiner strongly urges classified employees against any and all activities which may be construed, in any way, to be in violation of political prohibitions. We recommend that unions or associations having classified members, or classified employees who may be called upon to represent their organizations in support of political candidates, may wish to consider seeking legal counsel prior to engaging in such activities.

WE WISH TO REMIND ALL CLASSIFIED EMPLOYEES THAT THE ONLY PENALTY FOR PARTICIPATING IN POLITICAL ACTIVITY IS TERMINATION.

POLITICAL ACTIVITIES AND PENALTIES FOR VIOLATION OF FIRE AND POLICE CIVIL SERVICE LAW

Louisiana's Fire and Police Civil Service Law prohibits classified fire and police employees from engaging in political activities, both on and off duty. Political activity is defined in the Louisiana Constitution as any effort to support or oppose a political candidate or party. Such activity includes, but is not limited to, making contributions of time and money to political candidates, parties, campaigns, organizations, and factions, as well as making statements of support or opposition in elections, except those which are expressed privately.

The ONLY penalty for violating the prohibitions of Article X, Section 20 of the Constitution of the State of Louisiana, R.S. 33:2504, and R.S. 33:2564 is termination, a $500 fine, and ineligibility to serve in the fire and police classified service for a period of six years.

EMPLOYEE DEFINED

An employee, as referred to in this bulletin, is any person holding a job or position in the classified service of the Fire or Police Department by emergency, provisional, substitute, probationary, or permanent appointment. Such person is an employee and his political activity is regulated: (1) While he is on active duty or while off duty. (2) While on annual or sick leave. (3) While on educational, military, maternity, civil, emergency, or compensatory leave. (4) While on leave of absence of any type, with or without pay. (5) While off duty during a holiday. (6) While under suspension without pay.

SPECIFIC PROHIBITIONS IN THE LAW REGULATING POLITICAL ACTIVITY ON THE PART OF EMPLOYEES

Directly or indirectly paying or promising to pay any assessment, subscription or contribution for any political organization or purpose.

Soliciting or taking any part in soliciting any assessment, subscription, or contribution for any political organization or purpose.

Being a member of any national, state, or local committee of a political party.

Being an officer or member of any factional political club or organization.

Being a candidate for nomination or election to any public office.

Making any political speech or public political statement on behalf of any candidate, faction, or party as a part of any political campaign for the nomination or election of public officers.

Taking part in the management or affairs of any political party or in the political campaign of any candidate for public office, except to privately express his opinion and to cast his vote.

COERCION OR INTIMIDATION OF EMPLOYEES PROHIBITED BY THE FIRE AND POLICE CIVIL SERVICE LAW

No appointing authority or agent or deputy thereof or supervisor of any employee shall directly or indirectly demote, suspend, discharge, or otherwise discipline any person in the classified service for the purpose of influencing his vote, support, or other political activity in any election or primary election; and no appointing authority or agent or deputy thereof shall use his political authority or influence, by threats, promises, or other means, directly or indirectly, to punish or coerce the political action of any employee in the classified service.

OTHER PROHIBITIONS IN THE FIRE AND POLICE CIVIL SERVICE LAW AFFECTING PERSONS NOT NECESSARILY EMPLOYEES

No person shall be appointed or promoted to or demoted or dismissed from any position in the classified service, or in any way favored or discriminated against with respect to his political or religious opinions or affiliations.

No person shall commit or attempt to commit any fraud preventing the impartial execution of the civil service law.

No person shall solicit any assessment, subscription, or contribution of any employee in the classified service.

No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position in the classified service.

SOCIAL NETWORKING

The growing popularity of social networking sites and smart-phone applications, such as Facebook, MySpace, LinkedIn, and Twitter (to name just a few) represents a new and increasing exposure to prohibited political activity. Although these sites may appear to offer a venue of private expression, we advise that a text, a tweet, or a post to one's "wall" or "page", cannot be considered private, regardless of privacy settings. We believe it is necessary to caution classified employees to avoid making any statement or comment of a political nature which may be construed to be in violation of the political prohibitions. Be cautious also of "liking" political sites, and comments made by social networkers, making online contributions to political parties or campaigns, or promoting or disparaging political web-sites. ***Once a message is launched into cyberspace, expect that it may be shared by anyone with anyone for any purpose.***

COMMENT BY STATE EXAMINER

The State Examiner will not attempt to define all conduct constituting violations of the civil service law relating to prohibited political activity. It is the function of the local civil service board to determine violations. However, the State Examiner's Office continuously receives questions requesting interpretations of the political activity restrictions placed on classified employees. Some of the more frequently asked questions are listed on the following page. For ease of reference we have divided these into two columns. Answers to the questions in the left-hand column would be "No." This type of activity would be prohibited under existing restrictions. Answers to the questions in the right-hand column would be "Yes." Such activity has not been interpreted as contrary to political activity restrictions.

The examples listed on the following page are merely illustrations. They do not include all possible violations. When an employee is in doubt as to the propriety of his action he should refrain therefrom. Attention is again specifically called to the following provisions of the law: "NO EMPLOYEE IN THE CLASSIFIED SERVICE SHALL ---- TAKE PART IN THE MANAGEMENT OR AFFAIRS OF ANY CANDIDATE FOR PUBLIC OFFICE, EXCEPT TO PRIVATELY EXPRESS HIS OPINION AND TO CAST HIS VOTE." Article X, Section 20 of the Constitution of the State of Louisiana and Revised Statutes 33:2504 and 33:2564.

(continued on next page)

NO

May I wear a badge, button, T-shirt, or other item of clothing printed as a vote solicitation for a candidate, faction, or party?

May I display a political sticker on my personal vehicle?

May I accompany a candidate door to door to solicit voter support?

May I store, distribute, or transport political literature, posters, or other political data?

May I post political signs, pictures, or ads in public places, or display them in my home, yard, office, or elsewhere?

May my photograph be used, either individually or in a group, in campaign literature or ads?

May I distribute, sell, or solicit the sale of tickets to a political function or encourage attendance at such functions?

May I purchase a ticket for a function for a political candidate or may I attend such a function if someone gives me a free ticket?

May I sign a petition to have a person's name added to a ballot for an elected public office?

May I work at campaign headquarters, address campaign literature or envelopes, plan or arrange for a political rally or meeting, act as a driver or chauffeur for a candidate in an election campaign, or otherwise assist in a campaign?

May I sponsor a political function or any type of political meeting for a candidate or party in my home?

May I solicit votes or support for a candidate or party by any means or communication?

May I contribute a vehicle or money to promote transportation of voters to the polls?

The above restrictions would still apply even if the candidate for public office is the classified employee's spouse.

YES

May I designate $1.00 on my federal income tax return to a presidential campaign?

May my spouse place political bumper stickers on his/her personal vehicle? (Provided you do not drive the vehicle.)

May my spouse place political signs, pictures, or ads in our home, yard, or at other domiciles or places of business owned jointly by both of us?

May I be a member of an association which occasionally lobbies to get certain legislation approved? (Provided the legislation is not such that would support or endorse any candidate)

May I participate as a member of a group hired to perform at a political function? (Provided the group's fees have not been reduced or waived for political reasons.)

May I introduce political candidates at a function at which **all candidates** will speak?

May I actively support a school bond issue or other non-candidate election?

May I attend a political rally that is free and open to the public?

May I sign a recall petition? (However, you are prohibited from soliciting signatures for the petition.)

Please take special note of all parenthesized exceptions above.

****

ISSUED BY: STATE EXAMINER
MUNICIPAL FIRE AND POLICE CIVIL SERVICE, BATON ROUGE, LOUISIANA