

Office of the Attorney General
State of LOUISIANA

Opinion No. 80-572
May 7, 1980

9--CIVIL SERVICE COMMISSION Definition of Political

Activity--Application to board members and prospective board appointees.
ART. 10, s 9 (A & C) Const.; R.S. 33:2476(B)

Mr. Alvin A. LeBlanc, Jr.
Office of the City Attorney
City Hall
1801 Williams Boulevard
Kenner, LOUISIANA 70062

Dear Mr. LeBlanc:

I am in receipt of your correspondence of April 23, 1980 wherein you requested an opinion of the Attorney General. Specifically, you inquire as to the scope of 'political activities' which are prohibited once a person has been appointed to a civil service board; additionally, you inquire whether those same prohibitions apply to individuals during a six-month period prior to the appointment to a civil service board. (R.S. 33:2476(B)).

You state that your office is of the opinion

[that] members of the Civil Service Commission . . . must . . . refrain from engaging in any 'political activities'. This would appear to include action as minor as soliciting votes for a candidate.

We agree that once a person is appointed to a civil service board, he may not engage in political activities. Article 10 s 9(A) of the 1974 LOUISIANA Constitution provides:

No member of a civil service commission and no officer or employee in the classified service shall

[1] participate or engage in political activity, [defined as] an effort to support or oppose the election of a candidate for political office or to support a particular party in an election. (See Art. X s 9(C) of LA. Const.)

[2] be a candidate for nomination or election to public office except to seek election as the classified state employee serving on the State Civil Service Commission;

[3] be a member of any national, state, or local committee of a political party or faction;

[4] make or solicit contributions for any political party, faction, or

candidate;

[5] take active part in the management of the affairs of a political party, faction, candidate, or any political campaign, except to exercise his right as a citizen to express his opinion privately, to serve as a commissioner or official watcher at the polls, and to cast his vote as he deserves.

Delineating certain activities as being (or not being) within the scope of Article X, s 9's prohibition would be an arduous, if not impossible task. However, we do agree that voter solicitation falls within the prohibitions of Article X, s 9 because the Article prohibits 'an effort to support or oppose the election of a candidate for political office' (See LA. Const. (1974) Art. X, s 9(A) and (C)). An effort to support a candidate may take one of various forms. Since voter solicitation is one form of an effort to support a candidate for office, a member of a civil service board is prohibited from this activity.

Secondly, you ask whether R.S. 33:2476(B) prohibits a person from being engaged in 'political activity' during a six-month period prior to his appointment.

R.S. 33:2476(B), dealing with municipal fire and police civil service boards, states inter alia,

No member of a board shall have been, during a period of six months immediately preceding his appointment, a member of any local, state, or national committee of a political party, or an officer or member of a committee in any factional political club or organization.

(Emphasis added)

You inquire whether these statutory prohibitions applying to prospective appointees relate to the prohibitions in Article X, s 9 against political activities of those already appointed. Also you ask whether the reference to R.S. 33:2476 pertaining to 'political club or organization' includes membership/activity in a political campaign.

First, we note that the statutory language is not as clearly defined, nor is it as comprehensive as Article X, s 9 of the Constitution. This seems to evidence a legislative intent which is less restrictive for prospective board appointees vis a vis the strict constitutional standards for presently serving board members.

However, we also note that the terms 'political club or organization', as used in the statute, are not clearly defined. The Constitution, as it applies to members already serving on the board, prohibits taking an active part in 'any political campaign'. (Art. 10, s 9(A)).

If the terms 'political club or organization' include political campaigns, then for six months prior to one's appointment to the board, he may not be an officer or member of a political campaign 'organization on behalf of a candidate'. Further, any distinction between being a member of a political

campaign organization and 'taking part' in a political campaign is a nebulous, if not dubious, distinction. In *Gremillion v. Department of Highways*, 129 So. 2d 805 (LA. App. 1st Cir. 1961), a case dealing with a classified employee, the Court stated:

The purpose of a political campaign insofar as an individual is concerned is to stimulate the adherents of a candidate to join the individual in securing the election of a candidate. Any effort by an adherent to accomplish the result is of necessity taking part in a political campaign.

There is no requirement that one joining in the effort to elect a candidate participate therein only as an organized worker.

Gremillion at 808.

(Emphasis added)

In our view, *Gremillion's* broad language makes mere membership in a political campaign organization the functional equivalent of taking part in a political campaign.

In conclusion, we note that the Constitution clearly prohibits members of a civil service board from taking part in a political campaign. The Constitution also takes pains to define the term 'political activity'. As was mentioned previously, it could be argued that the absence of this language in the statute could be construed as evidence of less stringent standards for those persons to be appointed to a civil service board within the six-month prohibition.

However, if the terms 'political club or organization' include a political campaign, and if the *Gremillion* case language makes mere membership the functional equivalent of taking part in a political campaign, i.e., mere membership in a political campaign organization constitutes 'any effort' on behalf of a candidate, the ramifications for prospective appointees are obvious.

Therefore, because of the underlying principles of the civil service system, and the inability to define precisely the terms 'political club or organization' as used in the statute, we do not opine the scope of permissible or prohibited political activities of a prospective appointee to a municipal fire or police civil service board. Such a prerogative should be left for legislative clarification or judicial interpretation.

If we can be of further assistance to you, please do not hesitate to contact our office.

Yours Very truly,

William J. Guste, Jr.
Attorney General

By: Joseph I. Giarrusso, Jr.
Staff Attorney

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