



GENERAL CIRCULAR OSE 2012-01
August 20, 2012

The Office of State Examiner is issuing this circular in order to provide information on the bills that were passed in the 2012 Legislative Session that affect the fire and police departments, the classified fire and police employees, and the civil service boards. We appreciate you taking the time to review the information below. If you have any questions, please call our office at (225) 925-4400. The full text of the Acts may be accessed from our website at www.ose.louisiana.gov.

**2012 ACTS THAT IMPACT
MUNICIPAL FIRE AND POLICE CIVIL SERVICE LAWS**

ACT 572 (HB 106 - Police Chief's position in Houma) amends Revised Statute 33:2481.3.C. HB106, as originally filed, would have removed the sunset provision under R.S. 33:2481.3.C thus placing the position of Chief of Police permanently in the unclassified service. Due to a floor amendment, the position will remain in the unclassified service until July 1, 2016.

ACT 247 (HB 242 - Deputy Chief of Police position in Alexandria) enacts Revised Statute 33:2481.5. Alexandria was exempted from the original Deputy Chief of Police law that allowed for competitive appointments. Act 247 allows Alexandria to proceed as other cities have done in adopting this class as a competitive class.

ACT 595 (HB 801 - reemployment of employees who have resigned or retired from the classified service due to injury) enacts Revised Statutes 33:2490(E) and 33:2550(E). Act 595 (HB 801). Act 595 provides that any regular employee who resigns or retires because of a job-related injury and who was unable to perform the essential functions of his job, may, with prior approval of the civil service board, be reemployed past the normal four-year period provided in R.S. 33:2490 and 33:2550, and shall be entitled to have seniority computed for the time during which he was not working. The employee, however, must serve a working test period after reemployed.

ACT 644 (SB 312 - the position of Assistant Police Chief in Broussard, Carencro, Scott and Youngville shall be in the unclassified service) enacts Revised Statute 33:2571. Act 644 provides that the position of Assistant Chief of Police in the municipalities of Broussard, Carencro, Scott, and Youngville shall be in the unclassified service. The right of selection, appointment, supervision, and discharge for the position shall be vested in the Chief of Police of the city. Any person who is appointed from a position in the classified police service to serve as Assistant Chief

of Police shall not forfeit his seniority accumulated to the date of his appointment and shall continue to accumulate seniority during the time he holds the position of Assistant Chief of Police.

ACT 656 (SB 405 - position of Chief of Administration in the fire department) enacts Revised Statute 33:2481.5 and 33:2541.2. Act 656 provides that the governing authority may create, by ordinance, the position of Chief of Administration of the Fire Department. If so created, the position shall be filled on a competitive basis from a list of eligibles as provided for under R.S. 33:2491 and 33:2551. The right of selection, appointment, supervision, and discharge shall be vested with the Fire Chief, subject to approval of the appointing authority. These laws also provide for other provisions in regard to the position of Chief of Administration, including qualification requirements and appointment provisions. As a “competitive” class, the Fire Chief may choose from any of the eligibles rather than basing the appointment on departmental seniority. If any department wishes to implement this classification, please contact us for an informational guideline on how to move forward.

2012 ACTS THAT IMPACT THE FIRE SERVICE

ACT 453 (HB 526 - fire supplemental pay) amends and reenacts R.S. 33:2002(A)(1) and enacts R.S. 33:2002(A)(5). Act 453 provides that an employee who was ordered to active military duty in the armed services of the United States before the completion of one year of service, and who had completed and passed the required certified fireman's training program prior to such military service, shall be eligible to receive extra compensation beginning one year from his initial hiring date. An employee who was ordered to active military duty in the armed services of the United States before the completion of one year of service, and who had not yet completed and passed the required certified fireman's training program prior to such military service, shall be eligible to receive extra compensation immediately upon returning to employment and completion of a certified fireman's training program required under this Subsection.

ACT 596 (HB 818 - fireman training and certification; creates fire commission within LSU) amends Revised Statute 40:1541 and enacts 36:651(S). Act 596 creates the Louisiana Fire and Emergency Training within the Department of Education. Louisiana State University shall conduct training programs and perform its functions with the advice and guidance of the Louisiana Fire and Emergency Training Commission. This act also provides for the appointment of the nine member commission, its duties and when the commission meets.

ACT 789 (SB 500 - emergency medical services) amends Revised Statutes 36:919.4 and R.S. 40:1231, 40:1231.1(A), 40:1232(A) and (B), 40:1232.1(A) and (B), 40:1232.2(B)(1)(b) and (d), (B)(2), and (G), 40:1232.3(A)(2), (3), and (B), 40:1232.4(1), (3), and (5), 40:1232.5, the introductory paragraph of 40:1232.6 and 40:1232.6(1), (2), and (12), 40:1232.7(D) and (E), 40:1232.9, 40:1232.11, 40:1233, 40:1234, 40:1235(A)(1), (2)(a), (c), and (d), 40:1235.1(A), 40:1236, 40:1236.13(B) and (F), 40:1299.58.2(3), 40:1299.58.7(E), 40:1299.58.8(D), 40:1299.64.2(2), 40:1299.64.4(D), 40:1299.64.5(B). Enacts Revised Statute. 40:1232.4(10) and 40:1232.6(15). Act 789 changes certain emergency medical services provisions including; references to emergency medical personnel; title designations for certain licensees providing emergency medical services; grounds for disciplinary proceedings relative to intentional falsification of documents; duties of emergency medical personnel; permissible functions which an emergency medical services practitioner student may perform and under what conditions those functions may be performed;

certifications necessary for an emergency medical services practitioner to hold. This act also repealed Revised Statute 40:1236.3, 40:1299.58.2(4), and 40:1299.64.2(3).

ACT 349 (SB 98 - public funds) enacts Revised Statute 40:1510. Act 349 provides that notwithstanding any provision of law to the contrary, a fire protection district, municipal fire department, or volunteer fire department may expend public funds in connection with the following activities: (1) The purchase of a plaque, trophy, certificate, medal, or similar memento to acknowledge outstanding achievement or valiant act of personnel not to exceed one hundred dollars. (2) Meals, snacks or refreshments for firefighters involved in fire department related meetings, workshops, training programs, or performing of emergency services not to exceed twenty-five dollars per person. (3) Public funds may be used to pay or defray the reasonable expenses of travel and lodging required for attendance at any conference or convention for the purpose of educating or training fire department personnel with regard to their public duties and responsibilities.

ACT 427 (HB 986 - fire retirement) amends Revised Statute 11:2556(B)(2) and (3), 11:2559(A), and enacts 11:2556(G) and 11:2256.2. Act 427 provides that notwithstanding any other provision of law to the contrary, the board of trustees may implement a court order directing payment of any portion of a benefit to be paid in trust to his surviving minor child or his physically or mentally handicapped child regardless of such child's age, if the terms of the trust so provide and if the system is provided with a certified copy of the trust document. Such benefit or designated portion of a benefit shall be paid to the trust for addition to the trust property. Law includes definitions; requirements; restrictions; and other related matters.

2012 ACTS THAT IMPACT THE POLICE SERVICE

ACT 303 (SB 80 - powers of the Police Chief in Youngsville) enacts Revised Statute 33:423.23. Act 303 provides that notwithstanding the provisions of R.S. 33:423 or any other law to the contrary, the Chief of Police in the city of Youngsville shall appoint, promote, discipline, and dismiss police personnel subject to the budgetary limitations of the mayor and city council, pertaining to the number of allotted positions of the police department. This provision shall not, however, prohibit a police department employee from making a direct appeal to the city of Youngsville Civil Service Board, who shall have the authority to modify or reverse any actions of the Chief of Police. We will be asking the Attorney General for guidance on this Act because it seems to expand the authority of the board by giving them authority to modify or reverse any action of the chief.

ACT 343 (SB 642 - law enforcement) amends Revised Statute 33:2337(A)(1) and (2). R.S. 33:2337(A)(1) adds the offices of the city marshal and city constables to other entities which may furnish police resources in emergency situations or special events. R.S. 33:2337 (A)(2) changes the term “responding agency” for “police department”, where such resources may be recalled.

ACT 511 (HB 1050 - police retirement) enacts Revised Statute 11:2220(I) and 11:2225(B). Act 511 provides that if a member dies on or after January 1, 2007, while performing qualified military service as defined in 26U.S.C. 414(u), eligibility for survivor benefits shall be determined as if the member had resumed employment and then terminated employment on account of death. The retirement system shall credit the member's qualified military service as service credit for vesting purposes and for eligibility computation purposes as though the member had resumed employment under the Uniformed Services Employment and Reemployment Rights Act immediately prior to the

member's death. The time spent by the member in qualified military service shall not count for benefit accrual purposes but shall count for eligibility purposes under this Section. The law also include provisions relative to compliance with applicable federal tax qualification requirements; to provide an effective date; and to provide for related matters of the Municipal Police Employees' Retirement System. Repeals Revised Statutes. 11:2220.1, 11:2220.2, 11:2220.3, and 11:2234.

2012 ACTS THAT IMPACT THE FIRE AND POLICE SERVICES

ACT 280 (HB 932 - Law Enforcement Officer's and Fireman's Survivor Board and benefits of law enforcement officers) amends Revised Statute 33:1947 (A) and enacts 33:2201(F). Act 280 provides for a law enforcement member of the Law Enforcement Officer's and Firemen's Survivor Benefit Review Board. Also, this act provides the surviving spouse or child of a law enforcement officer who is a commissioned law enforcement officer and who is certified by the Council on Peace Officers Standards and Training at the time of his death shall be entitled to the payments provided for in R.S. 33:2201, if either of the following occur: (1) The officer was traveling to or from a public safety emergency or was responding to a request for law enforcement assistance regarding the health, safety, or welfare of the public. (2) The officer was traveling to or from his residence and his authorized work area while using a law enforcement vehicle provided by his employing agency.

ACT 168 (HB 89 - public collective bargaining) enacts Revised Statute 44:67.1 and 44:67.2 . Act 168 provides that no collective bargaining agreement to which a public employer is a party shall be accepted or ratified by the public employer or its representative until the collective bargaining agreement has been made available to the public via the Internet website of the public employer for at least five business days. The public employer shall issue a written public notice in the manner provided in R.S. 42:19(A)(2) informing the public of how such agreement may be accessed and the date, time, and place of the meeting at which the agreement will be considered by the public employer for acceptance or ratification.

ACT 479 (HB 10 - retirement benefits of public employees including fire and police) amends Revised Statute 11:272(E) and 11:293. Act 479 requires forfeiture of retirement benefits by any public employee or elected official who is a member of a public retirement system and who is convicted of certain state or federal felony acts associated with his office.

ACT 718 (SB16 - public retirement systems including fire and police) amends Revised Statute 11:185(D)(2), (3), and (5) and 11:502(B)(1). Act 718 amended R.S. 11:185(D)(2) to include "every designee of a member" to those who must complete continuing education or professional development training. R.S. 11:185(1)(3) increases the hours of education required, and (D)(5) prohibits any new member from voting on any board matter until he or she has completed certain educational or training requirements. R.S. 11:502(B)(1) was amended to extend the deadline to regain membership in the defined benefit plan from July 31, 2002, to December 31, 2007.

ACT 522 (HB 1174 - fire and police retirement systems) amends Revised Statute 11:62(6), 11:2213(4) and (20), and to enact 11:2241.1 through 11:2241.8, 11:2242.1 through 11:2242.8. Act 522 established "Hazardous Duty" and "Non-Hazardous Duty" subplans in the Municipal Police Employees' Retirement System and the Firefighters' Retirement System.

ACT 868 (HB 9) (retirement benefits of public employees) Act 868 proposes a constitutional amendment which if approved by voters, will authorize the legislature to provide for forfeiture of retirement benefits by public officials and employees who are convicted of felony acts associated with their positions.

2012 RESOLUTIONS TO STUDY POLICE PROMOTIONS

The House of Representatives suspended rules on May 30, 2012, and introduced and passed two resolutions to study police promotions in the Municipal Fire and Police Civil Service.

HR 149 requests the House Committee on Labor and Industrial Relations to study the feasibility of implementing procedures for promotions in the municipal police classified civil service that would combine the current seniority/testing system with merit-based factors and to report the committee's findings and recommendations to the legislature prior to the 2013 Regular Session of the Legislative of Louisiana. Please refer to our website for more information (www.ose.louisiana.gov)

HR 150 requests the House Committee on Municipal, Parochial and Cultural Affairs to study the impact of filling vacancies in certain positions in the classified police service on a competitive basis through the selection and appointment of a person with one of the five highest test scores and to report its findings to the House of Representatives prior to the convening of the 2013 Regular Session of the Legislative of Louisiana. Please refer to our website for more information (www.ose.louisiana.gov)

2012 ACTS THAT IMPACT THE OPEN MEETINGS LAWS CIVIL SERVICE BOARD MEETINGS

ACT 461 (HB 1143 - public meetings) amends Revised Statute 42:19(A)(1), to provide that your board shall not change the agenda less than twenty-four hours prior to your board meeting. Each item on the agenda shall be listed separately and with reasonable specificity.

ACT 747 (HB 580 - public meetings) amends Revised Statute 42:19(A)(2) to require that if your board has a website, that you also give notice of your meetings via the Internet on the website of your board not less than twenty-four hours immediately preceding the meeting. However, the failure to timely post the notice via the Internet or the inability of the public to access your website due to any type of technological failure shall not be a violation of R.S. 42:19. Even though the law does not require this, if your city or fire protection district has a website and is agreeable to post the meeting notices and agendas, we think it is a good idea.

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