

March 7, 2001
OPINION NO. 00-487

Honorable John D. Sittig
Mayor, Town of Iota
116 Duson Avenue
Iota, Louisiana 70543

Dear Mayor Sittig:

Your request for an Attorney General's opinion has been forwarded to me for research and reply. Specifically, you ask:

- 1) Whether Iota can require police officers to remain employed by Iota for six months after they have received training which is paid for by the town?
- 2) Whether the Town Clerk can receive a cost of living salary increase from the Board of Aldermen or does the increase have to be done by ordinance?

The answer to your question is found in La. R.S. 33:362(A)(3) which states:

(3) Subject to law, including R.S. 33:423.2 and 423.3, and applicable civil service rules and regulations, the board of aldermen shall, by ordinance, provide policies and procedures regulating the employment of municipal employees including the hiring and firing of such employees. (Emphasis added).

As is readily apparent from this statute, the legislature has given the Board of Aldermen the power to determine policies and procedures for the employment of municipal employees. Since police officers are employees of the municipality, in your case, Iota, the Board of Aldermen has the power to enact ordinances which regulate their employment. A requirement in the employment contract that police officers remain in the employ of the Town of Iota for six months following training is certainly within these powers authorized by Section 362(A)(3).

It should be noted that the remedy in a case where an officer has contracted to work for six

months and then leaves your employ prior to that time is for breach of contract. According to the Louisiana Constitution of 1974, Article I, Section 3, slavery and involuntary servitude are prohibited, meaning that you cannot require the officer to continue employment by the Iota police department. However, you may consider what is called stipulated damages which could require the officer to repay training expenses and other amounts you have expended if he breaches the terms of the employment contract.

Your second question is addressed in La. R.S. 33:404.1 which states in pertinent part:

The board of alderman shall by ordinance fix the compensation of the mayor, aldermen, clerk, chief of police, and all other municipal officers. The board of aldermen may by ordinance increase or decrease their compensation and the compensation of any nonelected municipal officer (Emphasis added).

As is stated in this statute, the compensation of the clerk is fixed by ordinance and may be increased or decreased by ordinance.

We trust your questions have been answered. However, if you should need anything further from this office, do not hesitate to contact us.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY: _____
FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL

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La. R.S. 33:362(A)(3)

La. R.S. 33:404.1

La. Const. Of 1974 Article 1, Section 3

The Board of Aldermen may enact an ordinance which requires police officers to remain in its employ for six months following training.

The compensation of the town clerk in a Lawrason municipality is fixed by ordinance and may be increased or decreased by ordinance.

Honorable John D. Sittig
Mayor, Town of Iota
116 Duson Avenue
Iota, Louisiana 70543

DATE RECEIVED: 11/27/00BR DATE RECEIVED: 12/04/00SH

DATE RELEASED: March 7, 2001

**FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL**