



CHARLES C. FOTI, JR.
ATTORNEY GENERAL

State of Louisiana

DEPARTMENT OF JUSTICE

P.O. BOX 94005

BATON ROUGE

70804-9005

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Opinion Number 03-0119

Dr. Tim J. Tregle, Mayor
City of Morgan City
P. O. Box 1218
Morgan City, Louisiana 70381

54 – INSURANCE
90-A - POLITICAL SUBDIVISIONS – Officers, Agents
& Employees

City of Morgan City can implement proposed new insurance guidelines, and impose a surcharge upon newly hired employees, after retirement, if those employee/retirees choose to continue coverage under the City's health and hospitalization policy.

Dear Dr. Tregle:

Reference is made to your request for an opinion of this office regarding health and hospitalization insurance plan benefits for the City of Morgan City's retirees.

It is our understanding, in accordance with your correspondence and in accordance with the undersigned's discussions with Mr. Bart Mancuso, Chairman of the City's Insurance Commission, that the City does not currently have any guidelines with regard to retiree's costs toward their health and hospitalization insurance, but that retirees are responsible for paying the entire cost of same if they elect to remain on the City's health and hospitalization plan. In spite of the fact that retirees are currently required to pay 100% of their premiums, the City is concerned that the plan is, or will become, overburdened by the retiree section of its group. As such, in accordance with your letter:

"[t]he City is trying to create guidelines in order to safeguard the plan from over exposure of the retiree section, and at the same time, be considerate of the availability of hospitalization and health insurance to retirees in general."

It is our understanding that the City would prefer to make insurance available to affected retirees, even at a high cost to the retiree, rather than cease providing coverage to such retirees upon their retirement.

Under the City's proposed new guidelines, which we are advised will only apply to individuals employed after adoption of the new guidelines, it is our understanding that in addition to payment of 100% of their premiums, retirees who choose to remain on the City's health and hospitalization plan after retirement will be required to pay a surcharge (calculated as percentage of premium cost) to the City, which surcharge will be based upon years of active service. Thus, in accordance with the Suggested Retiree Guidelines which you have provided to this office, a regular retiree with 25 or more years of active service would pay no surcharge, but a retiree with 10 years of service or less would pay a surcharge of 100%.

It is our understanding that the City will utilize all funds generated by the surcharge to reduce the premiums charged to and for all health and hospitalization plan participants. In this way, the City hopes to at least partially offset the increase in participant's premiums that generally occurs within health and hospitalization plans, such as the City's, that are heavily utilized by retirees.

Specifically, on behalf of the City, you seek our opinion regarding the legality, under state law, of the imposition of the surcharge upon affected retirees who choose to continue coverage under the City's health and hospitalization policy.

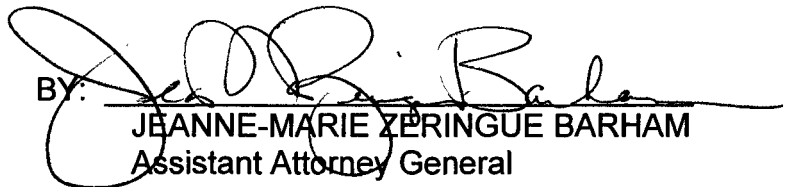
Please be advised that our research revealed no provision of Louisiana law that directly addresses the issue of the imposition of such insurance surcharges upon retirees. We also note that the proposed new guidelines will only apply to employees hired by the City after adoption of the new guidelines; the new guidelines will have no effect upon the vested rights of existing employees or retirees. Additionally, we note that the City has no obligation to provide any retiree coverage whatsoever to newly hired employees. If the City so chose, it could instead decide to eliminate or phase out the availability of health and hospitalization insurance for its retirees, as long as the vested rights of existing employees and retirees would not be adversely affected thereby.

Based upon the foregoing, it is the opinion of this office that the City of Morgan City can implement its proposed new insurance guidelines, and impose a surcharge upon newly hired employees, after retirement, if those employee/retirees choose to continue coverage under the City's health and hospitalization policy. In our opinion, the City's proposed guidelines do not violate any provision of state law.

We trust the foregoing to be of assistance. Please do not hesitate to contact us if we can be of assistance in other areas of the law.

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY: 
JEANNE-MARIE ZERINGUE BARHAM
Assistant Attorney General

CCF, jr./JMZB/dam