

July 27, 2004  
OPINION 04-0024

Honorable Charlene M. Smith  
Mayor  
P. O. Box 310  
Zachary, LA 70791

9 CIVIL SERVICE

A municipal classified employee whose position of employment is abolished nonetheless retains his seniority and must be placed on the reemployment list for his class.

Dear Mayor Smith:

As the Mayor of the City of Zachary, you asked the following legal questions:

What is the employment status of a Zachary municipal classified employee where his position is abolished? What is the employment status of this employee where the municipal civil service board abolishes the class in which the employee held his position?

Act 577 of the 1974 Regular Legislative Session created the Zachary Municipal Civil Service. The provisions of Act 577 govern our response.

In both instances under review, an employee whose position is abolished or an employee whose position is abolished is considered to be "laid off." Act 557 defines "lay off" as "the removal of an employee, in accordance with the provisions of this Act, because of lack of work, failure of financial appropriation or other causes which do not reflect on the employee." See Section 1 (15 ) of Act 557.

Section 21(B) of Act 557 addresses both scenarios and provides:

B. Whenever a position in the classified service is abolished by the governing authority because of stoppage of work, or lack of funds or for other causes, the employees in the department involved, and in the class affected, shall be laid off in the inverse order of seniority in that position and class. The names of employees so laid off shall be put on the reemployment list in the order in which such employees are laid off, so that the names of those with the least seniority shall be at the bottom of the list.

Subpart B quoted above dictates the result in either instance, i.e., a position alone is abolished or the position is abolished by virtue of the abolishment of the class to which the position belongs. In both instances, Act 577 dictates that the names of employees so laid off shall be put on the reemployment list in the order in which such employees are laid off, with the names of those with the least seniority at the bottom of the list.

"Reemployment list" is defined in Section 1 (27) as the "employment list for the entrance or lowest ranking class in the classified service or any group of classes which have

been grouped in the classification plan containing names of regular employees who have been laid off under the "lay off" provisions of this Act."

Further, "class" or "class of position" is defined by Section 1(14) as "a definitely recognized kind of employment in the classified service, designated to embrace positions that are so nearly alike in the essential character of their duties, responsibilities and consequent qualification requirements that they may fairly and equitably be treated alike under like conditions for all personnel purposes".

In the opinion of this office, an employee whose class is abolished is considered to be "laid off" and must be placed on the reemployment list for that class *in the event that the class is reestablished*. The employee retains his seniority.

We note that resolution of this issue is squarely within the responsibility and authority of the municipal civil service board. Section 10 of Act 557 states, in pertinent part:

As soon as practicable, the board shall direct the director to prepare, with such expert assistance as may be necessary, a classification plan for municipal employees covered by this Act, which shall consist of classes designated by standard titles and description or specifications designed to provide for all positions in the classified service.....The director shall also recommend to the board rules and regulations to carry out the foregoing and shall as far as practicable follow the general principles of civil service. ....The recommendations of the director shall not become effective until approved and adopted by the board. The rules which apply to the classification plan shall provide for additional classes, change of any classes, abolition of any classes, and for amendments to the plan or revision thereof. (Emphasis added).

The municipal civil service board is the appropriate agency to address further inquiries regarding these issues.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

BY:

\_\_\_\_\_  
KERRY L. KILPATRICK  
ASSISTANT ATTORNEY GENERAL

KLK:ams

OPINION 04-0024

9 CIVIL SERVICE

A municipal classified employee whose position of employment is abolished nonetheless retains his seniority and must be placed on the reemployment list for his class.

Honorable Charlene M. Smith  
Mayor  
P. O. Box 310  
Zachary, LA 70791

Date Received:  
Date Released: July 27, 2004

KERRY L. KILPATRICK  
ASSISTANT ATTORNEY GENERAL