

May 16, 2006
OPINION 05-0361

Ms. Dawn M. Young
South Bossier Fire Department
3551 Hwy 527
Elm Grove, LA 71051

92-A-2(m) Retirement Firefighters
R.S. 11:2253; R.S. 11:1902(12)(a)
Membership in the Firefighter's Retirement System is mandatory for a person employed on or after January 1, 1980, where an ordinance exempting these employees has not been enacted on or before that date. Firefighters are not eligible to become members of the Parochial Employees' Retirement System.

Dear Ms. Young:

You have asked this office to advise you whether new employees of the South Bossier Fire Department must participate in the Firefighter's Retirement System. The Firefighter's Retirement System is governed by R.S. 11:2251, et seq., and is established for "firemen employed by any municipality, parish, or fire protection district of the state of Louisiana."

R.S. 11:2253 governs our response and provides, in pertinent part:

Chapter 9. Firefighters' Retirement System
§2253. Membership

A. The membership of the retirement system shall be composed as follows:

(1)(a)(i) Except as provide in R.S. 11:2252(12), and except as provided further in this Paragraph, any person who becomes an employee as defined in R.S. 11:2252 on and after January 1, 1980, shall become a member as a condition of his employment.

Membership in the Firefighters' Retirement System is a mandatory condition of employment for any person who becomes an employee, as defined within the statute, on or after January 1, 1980.

The statute does make an exception to this general rule in R.S. 11:2253(1)(b)(i), providing:

(b)(i) Except as otherwise provided in Item (ii) of this Subparagraph, the mandatory membership provisions of this Paragraph shall be inapplicable

with respect to any municipality, parish, or fire protection district which on or before January 1, 1980, enacts an ordinance exempting the municipality, parish, or fire protection district from the provisions of this Paragraph, which ordinance is hereby authorized.

If an ordinance was adopted on or before January 1, 1980 which exempted these employees from mandatory membership in the Firefighter's Retirement System, then a 401K matching fund retirement option could be offered. Further, the Parochial Employees' Retirement System is not available as an option to these employees as they are excluded from membership in R.S. 11:1902(12)(a), stating:

(12)(a) "Employee" means any person who is employed as a permanent employee of a parish who works at least twenty-eight hours a week and whose compensation is paid wholly or partly by said parish, but excluding all persons employed by a parish or city school board, and all persons eligible for all other public retirement system of this state.

"All persons eligible for any other public retirement system" would also include firefighters, as they are eligible for membership in the Firefighters Retirement System, and thus excluded from membership in the Parochial Employees' Retirement System.

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

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Date Received:
Date Released: May 16, 2006

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL