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DEPARTMENT OF JUSTICE
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OPINION 14-0015

71-1-1 MUNICIPAL FIRE & POLICE CIVIL SERVICE

La. R.S. 33 :2214(B)

Mr. Mickey Dove
Chief of Police
City of Natchitoches Police Department
Natchitoches, LA 71457

The benefits afforded to a police department employee by La. R.S. 33:2214(B) are not changed when the employee also receives benefits for the same condition from the Veteran's Administration.

Dear Chief Dove:

Our office received your request for an opinion as to whether a police department employee should be provided full benefits of sick leave under La. R.S. 33:2214(B) when such employee will also be receiving benefits from the Veteran's Administration.

According to the information in your request, the Natchitoches Police Department is anticipating providing sick leave with full pay to an employee who has been diagnosed with post-traumatic stress disorder. It is the Department's understanding that the employee will also be receiving Veteran's Administration benefits for the same condition.

La. R.S. 33:2214(B)(1) governs sick leave for employees of the police department and states in pertinent part, as follows:

Each employee of the police departments of the municipalities covered by this Subpart, except the city of Westwego, shall be entitled to and given with full pay a sick leave aggregating not less than fifty-two weeks during any calendar year when the conditions actually warrant. **Any police department employee who draws such full pay during sick leave shall have such pay decreased by the amount of worker's compensation benefits actually received by such employee.**

(Emphasis added).

Your request points to the last sentence of La. R.S. 33:2214(B)(1) and notes that the statute mentions a decrease in benefits if the employee in question is receiving worker's compensation benefits, but does not mention other possible benefits an employee may be receiving.

In your request, you raise concerns of "double recovery", citing *Bamberg v. City of Shreveport*, 26,278 (La.App. 2 Cir. 12/7/94), 647 So.2d 1207. The issue in *Bamberg* was the burden of proof required by the employer in order for the City of Shreveport to receive a workmen's compensation credit against sick leave as mandated by La. R.S. 33:2214(B)(1). In *Bamberg*, the court stated as follows:

LSA-R.S. 33:2214(B) sick leave benefits were created and mandated by the Louisiana legislature. Since the legislature created these sick leave benefits, they are subject to its regulation. It is clear from the second sentence of LSA-R.S. 33:2214(B) the legislature specifically intended to prevent employees from receiving "double recovery" by collecting full sick leave benefits and worker's compensation benefits for the same time period. This is reflected not only by the mere fact the statute provides for credit, but also by the fact that the legislature made the credit mandatory, not discretionary.

Although the intent of the legislature, as correctly interpreted in *Bamberg*, was to prevent employees from receiving "double recovery", this "double recovery" only applies to sick leave benefits and worker's compensation benefits for the same time period. See La. R.S. 33:2214(B). La. R.S. 33:2214(B) does not authorize a credit against sick leave for Veteran's Administration benefits. Therefore, it is the opinion of this office that La. R.S. 33:2214(B) does not authorize a credit against a police department employee's sick leave for Veteran's Administration benefits received by the employee.

In conclusion, it is the opinion of this office that the benefits afforded to a police department employee by La. R.S. 33:2214(B) are not changed when the employee also receives benefits for the same condition from the Veteran's Administration. We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

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