



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

JUN 17 2015
OPINION 14-0198

Chief Bry Layrisson
Chairman
Municipal Police Supplemental Pay Board
P.O. Box 66614, Box B-8
Baton Rouge, LA 70896-6614

9 CIVIL SERVICE COMMISSION
90-A POLITICAL SUBDIVISIONS- Officers, Agents, Employees

La. R.S. 33:2218.2 La. R.S. 40:1667.1

Pursuant to La. R.S. 40:1667.1(A)(2)(a), commissioned police officers employed by the Southern University Police Department, New Orleans campus, are entitled to state supplemental pay, provided that such officers meet all the qualifications required in the statute.

Dear Mr. Layrisson:

You have requested an Attorney General's opinion as to whether commissioned officers employed by the Southern University Police Department, New Orleans campus ("SUNOPD"), are eligible for supplemental pay pursuant to La. R.S. 33:2218.2(A)(2)(a).¹

As an initial matter, we note that the purpose of state supplemental pay for municipal police officers is to promote the public peace and safety, and the enforcement of state laws by municipal police officers.² The terms "municipality" and "municipal" include bona fide police agencies of the state or its political subdivisions.³ Further, except where this purpose would be clearly abased, the supplemental pay provisions should be broadly construed so as to favor an employee's inclusion within its coverage.⁴

The language of the former La. R.S. 33:2218.2(A)(2)(a), now found under La. R.S. 40:1667.1(A)(2)(a) reads:

Every sworn, commissioned law enforcement officer employed on a full-time basis by a bona fide police agency of the state or its political subdivisions, other than the Department of Public Safety and Corrections and the Department of Wildlife and Fisheries, and headquartered in the city of New Orleans and who serves the welfare of the public in the capacity of a police officer by providing police services to the general public through effecting arrests, issuing citations, and serving warrants

¹ Note that by way of the Louisiana Act 158 of 2014, La. R.S. 33:2218.1 *et seq.* was redesignated under La. R.S. 40:1667 *et seq.*, which became effective on August 1, 2014.

² La. R.S. 40:1667.

³ La. R.S. 40:1667.1(A)(2)(b).

⁴ La. Atty. Gen. Op. No. 83-43.

while patrolling levees, waterways, and riverfront areas, or while patrolling bridges that are within the boundaries of the city of New Orleans shall be paid by the state extra compensation in the amount of five hundred dollars per month in addition to the compensation now paid to him by his employer out of self-generated revenue attributable to the agency employing such officers. To be eligible for the extra compensation, each such law enforcement officer shall have completed one year of service, and any such law enforcement officer hired after March 31, 1986, shall also have completed and passed a [POST] council-certified training program, as provided in R.S. 40:2405.

A proper determination concerning the SUNOPD officers' right to receive supplemental pay from the State requires a brief review of the law and jurisprudence involving La. R.S. 40:1667.1(A)(2)(a).

In *State Civil Serv. Comm'n v. Dep't of Pub. Safety Dir.*, 873 So.2d 636 (La. 4/14/04), the Louisiana Supreme Court held that the statute in question was unconstitutional because it infringed upon the exclusive authority of the Civil Service Commission to regulate compensation for state classified employees. However, three years after the *Civil Serv. Comm'n* decision was rendered, Act 485 of 2007 Louisiana Legislative Session amended La. Const. art. X, § 10(A)(1)(b) to authorize the legislature to provide for supplemental pay to certain officers employed by a bona fide police agency of the state or its political subdivisions.⁵ La. Const. art. X, § 10(A)(1)(b) reads:

Nothing herein shall prevent the legislature from supplementing the uniform pay plans for sworn, commissioned law enforcement officers employed by a bona fide police agency of the state or its political subdivisions and for fire protection officers employed by a port authority, from any available funds of the state, the department, the agency, or the political subdivision, provided that such supplement may be made available only for those sworn, commissioned law enforcement officers employed on a full-time basis who serve the welfare of the public in the capacity of a police officer by providing police services to the general public, by effecting arrests, issuing citations, and serving warrants while patrolling waterways and riverfront areas and for those fire protection officers employed on a full-time basis who provide fire protection services to a port authority.

This constitutional amendment supersedes the finding in *Civil Serv. Comm'n* regarding the unconstitutionality of Section (A)(2)(a).

⁵ Louisiana Act 485 of 2007 was approved with 56% of the vote.
[http://ballotpedia.org/Louisiana_Salary_Supplements_for_Law_Enforcement_Officers_and_Firefighters,_Act_485_\(2007\)#cite_note-2](http://ballotpedia.org/Louisiana_Salary_Supplements_for_Law_Enforcement_Officers_and_Firefighters,_Act_485_(2007)#cite_note-2). (Last visited 12/9/2014).

Here, your request makes reference to a letter from the SUNOPD's Chief of Police, stating that the language found in La. R.S. 40:1667.1(A)(2)(a) squarely applies to the SUNOPD officers. Specifically, the letter reads, in pertinent part, as follows:

The Officers in [the SUNOPD] are sworn and commissioned law enforcement officers by the state of Louisiana, employed on a full-time basis by a bona fide police agency.... [The SUNOPD is] headquartered in the city of New Orleans and serve[s] the welfare of the general public in the capacity of police officers. [The SUNOPD] provide[s] police services to the general public through effecting arrests, issuing citations, and serving warrants while patrolling levees, waterways, and bridges that are within the boundaries of the city of New Orleans.⁶

Therefore, since the Southern University, New Orleans campus, is considered a state agency⁷ located within the boundaries of the City of New Orleans, and the tasks and functions of the SUNOPD officers are those normally performed by law enforcement officers as defined in the constitution and the supplemental pay statute, it appears that qualified and eligible SUNOPD officers are included within the meaning of La. Const. art. X, § 10(A)(1)(b) and La. R.S. 40:1667.1(A)(2)(a) and are entitled to state supplemental pay.

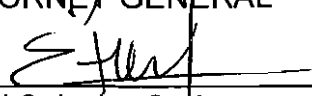
In sum, assuming that the facts provided in your request and attached correspondence are accurate, it is the opinion of this office that pursuant to La. R.S. 40:1667.1(A)(2)(a), qualified and eligible commissioned police officers employed by the Southern University Police Department, New Orleans campus, are entitled to state supplemental pay, provided that such officers meet all the qualifications required in the statute.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By:


Ethel Solache Graham
Assistant Attorney General

JDC: ESG

⁶ See letter dated June 30, 2014, attached to your request.

⁷ <http://suno.edu/technology/policies/> (Last visited 12/9/2014). Also see La. Atty. Gen. Op. No. 79-648.