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DEPARTMENT OF JUSTICE
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OPINION 15-0099

Mr. Quint J. Liner
Fire Chief
Terrebonne Parish Fire District # 10
1767 Bayou DuLarge Rd.
Theriot, LA 70397

47-A-1 FIRE PROTECTION DISTRICTS

La. R.S. 33:1969

Pursuant to La. R.S. 33:1969, the Terrebonne Parish Fire District # 10 is required to pay the same compensation to firefighters who have the same performance of duty and responsibility. However, part-time work versus full-time work does not qualify as "equal performance of duty and responsibility."

Dear Chief Liner:

On behalf of the Terrebonne Parish Fire District # 10 ("District"), you have requested an Attorney General's opinion as to whether, pursuant to La. R.S. 33:1969, the District is bound to pay the same hourly rate to its firemen, regardless if they perform their duties on a full-time or part-time basis.¹ Specifically, you state that those firefighters who work 168 hours in a two week period are paid \$8.00 per hour plus benefits, and firefighters who work only 29 hours per week are paid \$15.00 per hour with no benefits.

La. R.S. 33:1969 provides that "[e]qual recognition and compensation shall be received for equal performance of duty and responsibility." Whether the language of La. R.S. 33:1969 requires the District to strictly uniform the pay for all its firefighters, despite their full-time or part-time status, requires analyzing the statute under the rules of statutory construction.

When a law is clear and unambiguous and its application does not lead to absurd consequences, it shall be applied as written and no further interpretation may be made in search of legislative intent. La. C.C. art. 9. The meaning and intent of a law is determined by considering the law in its entirety and all other laws on the same subject matter and placing a construction on the provision in question that is consistent with the express terms of the law and with the obvious intent of the legislature in enacting it. The statute must therefore be applied and interpreted in a

¹ Note that La. R.S. 33:1969 is part of the organizational provisions of paid fire departments operated by a municipality with a population of thirteen thousand or more and any fire protection districts. It does not form part of the Fire and Police Civil Service law (La. R.S. 33:2531 *et seq.*). Also, note that the provisions governing the municipal fire civil service places part-time employees in the unclassified service. La. Atty. Gen. Op. No. 11-0272A.

manner which is consistent with logic and the presumed fair purpose and intention of the legislature in passing it.²

Where the application of statutory text is suggested to create an absurd consequence, the literal language need not be followed.³

In *La Grange*, the court analyzed the legislative intent of La. R.S. 33:1969 (providing for equal pay) in relation to La. R.S. 33:1992 (directing that higher-ranking employees receive a specified percentage above the salary of a fireman). The court noted:

Reading these provisions together, we believe the legislature intended that firefighters of the same rank, who have equal longevity in that rank and in the system overall, and who equally perform their duties will be paid the same hourly rate. Conversely, firefighters in the same rank who equally perform the same duties and responsibilities but have different lengths of overall service or service in that rank are not entitled to the same pay. A different number of years of service in a particular rank does not qualify as "equal performance of duty and responsibility."⁴

Under this reasoning, it appears that La. R.S. 33:1969 is subject to certain quantitative and qualitative factors because, as stated in *La Grange*, "La. R.S. 33:1969 does not dictate equal compensation in the absence of an equal qualitative performance."⁵ In accord, our office has opined that "all firemen should receive equal recognition and compensation according to competency displayed in performance of their respective duties and responsibilities attached thereto."⁶

Also, in *Morgan v. City of Shreveport*,⁷ the court reasoned that "[i]f the legislature intended for all firefighters in a class to be paid the same, regardless of specific duties and qualifications, they never would have passed La. R.S. 33:2586,⁸ because it allows for unequal pay. The very idea that it is an incentive implies that some get the pay and others do not."⁹ "Therefore, since the legislature specifically provides for instances of incentive pay, the statutory framework [of La. R.S. 33:1969] does not require that all firefighters be paid the same."¹⁰

² *La Grange v. Fire Prot. Dist. No. 4 of St. Tammany Parish*, 2003-0240 (La. App. 1 Cir. 11/7/03), 868 So. 2d 40, 46 (La. Ct. App. 2003) (citations omitted).

³ 20 La. Civ. L. Treatise, Legis. Law & Proc. § 7.6 (2013 ed.).

⁴ *La Grange*, at 47.

⁵ *Id.*, at 47, n. 8.

⁶ La. Atty. Gen. Op. 1938-40, p. 493.

⁷ 46,362 (La. App. 2 Cir. 7/13/11), 71 So. 3d 1104, 1108, *writ denied*, 2011-1929 (La. 11/14/11), 75 So. 3d 944.

⁸ La. R.S. 33:2586 requires fire civil service boards to establish a plan for awarding incentive pay to classified employees.

⁹ *Morgan*, 71 So. 3d at 1108.

¹⁰ *Morgan*, 71 So. 3d at 1109.

Here, the firefighters in question are not employed and tasked with the same duties and responsibilities: one is full-time and the other is part-time. Following the reasoning in *La Grange*, it appears that part-time work versus full-time work does not qualify as "equal performance of duty and responsibility."

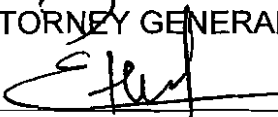
Thus, it is the opinion of this office that, pursuant to La. R.S. 33:1969, the District is required to pay the same compensation to firefighters who have the same performance of duty and responsibility. However, since part-time work versus full-time work is not an equal performance of duty and responsibility, the District is permitted but not required to pay the same compensation to its full-time and part-time firefighters.

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,

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