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DEPARTMENT OF JUSTICE
CIVIL DIVISION
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OPINION 23-0067

Mr. Henry D. H. Olinde, Jr.
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71-1-1 MUNICIPAL FIRE AND POLICE SERVICE

La. R.S. 33:1961

La. R.S. 33:1996

The population requirements of La. R.S. 33:1961 do not apply to La. R.S. 33:1996; recalling, to the extent inconsistent with this opinion, La. Atty. Gen. Op. Nos. 78-4, 78-4A, 78-66, 78-259, 88-42, 00-266, 00-370, 09-0224, 12-0063.

Dear Mr. Olinde,

Your request for an Attorney General's Opinion on behalf of the City of Denham Springs Fire and Police Municipal Civil Service Board ("the Board") has been assigned to me for research and reply. In your request, you seek this office's opinion as to whether La. R.S. 33:1996 applies to the City of Denham Springs.

In connection with your request, you have provided certain facts, which I set forth below:

According to the official 2020 United States Census, the City of Denham Springs ("the City") had a population of 9,286 persons.

In light of its population, the City Fire and Police Service is governed by the Fire and Police Civil Service law for Small Municipalities and for Parishes and Fire Protection Districts, La. R.S. 33:2531 *et seq.*

Pursuant to La. R.S. 33:2557, the Board is obligated to adopt rules providing for leaves of absence (including vacation leave) in the City's fire service. Because of this statutory obligation, the question of the applicability of La. R.S. 33:1996, which sets forth annual vacation requirements for firemen, applies to the City, presents itself to the Board.

With these facts in mind, we now address the legal issues relevant to this matter. Louisiana Revised Statute 33:1996 provides:

Firemen in municipalities, parishes and fire protection districts to which this Subpart applies, after having served one year, shall be entitled to an annual vacation of eighteen days with full pay. This vacation period shall be increased one day for each year of service over ten years, up to a maximum vacation period of thirty days, all of which shall be with full pay. The vacation privileges herein provided for shall not be forfeited by any member of the department for any cause. Firemen employed on January 6, 1969 shall

have their present longevity considered as a factor in the computation of their vacation benefits as provided herein.

The provisions of this section shall in no way be construed to affect in any manner any presently existing system of computing vacation periods under which greater vacation benefits are granted than those provided for herein and the same shall continue in full force and effect.

In addition, La. R.S. 33:1961 provides:

This Subpart applies to any paid fire department operated by a municipality which has a population of thirteen thousand or more and also to firemen paid by any parish or fire protection district.

In interpreting these statutes, this office has opined for many years that La. R.S. 33:1961 limits the applicability of La. R.S. 33:1996 to only those municipalities with populations of thirteen thousand or more.¹

Nevertheless, in 2020, the Third Circuit decided *Foster v. City of Leesville*, 2020-47 (La. App. 3 Cir. 11/4/20), 307 So.3d 272, *writ denied* 2020-1396 (La. 1/26/21), 309 So.3d 340, in which it interpreted the same statutes. The Third Circuit determined that, because La. R.S. 33:1961 was in **Subpart A** of Part 2 of Chapter 4 of Title 33 and La. R.S. 33:1996 was in **Subpart B** of Part 2 of Chapter 4 of Title 33, the population limitations of La. R.S. 33:1961 do not apply to La. R.S. 33:1996.

Accordingly, in view of the decision in *Foster*, this office now opines that the population requirement found in La. R.S. 33:1961 does not apply to La. R.S. 33:1996. This office hereby recalls previous opinions, including but not limited to, La. Atty. Gen. Op. Nos. 78-4, 78-4A, 78-66, 78-259, 88-42, 00-266, 00-370, 09-0224, and 12-0063 to the extent that the opinions concluded that La. R.S. 33:1996 did not apply to municipalities with populations of less than 13,000.

We trust 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,

JEFF LANDRY
ATTORNEY GENERAL

BY: 
CHIMÈNE ST. AMANT
ASSISTANT ATTORNEY GENERAL

JL:CS

¹ See La. Atty. Gen. Op. Nos. 78-4, 78-4A, 78-66, 78-259, 88-42, 00-266, 00-370, 09-0224, 12-0063.