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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
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February 22, 2024
OPINION 23-0122

Chief Cary Mosby
Chief of Police
French Settlement Police Department
1605 La Hwy 16
French Settlement, LA 70733

71-1-1 Municipal Fire & Police Civil Service

La. R.S. 33:2211

La. R.S. 33:2212-2216

Due to its population size, the general statutes on minimum wages and maximum hours found in La. R.S. 33:2211, *et seq.*, do not apply to the Village of French Settlement.

Dear Chief Mosby,

Your request for an Attorney General's Opinion has been assigned to me for research and reply. In your request, you have asked for the opinion of this office as to whether La. R.S. 33:2212(B) is applicable to the Village of French Settlement.¹ In addition, your request seeks clarification on whether municipalities with a population below twelve thousand are exempt from adhering to La. R.S. 33:2212 through La. R.S. 33:2216. Furthermore, you specifically inquire whether such municipalities, if exempt, are not required to wait 86 hours to pay law enforcement overtime pursuant to the provisions of the Fair Labor Standards Act (FLSA).

We now address the legal issues relevant to this matter. Louisiana Revised Statute 33:2211(A) provides:

Except as provided in Paragraph (2) of this Subsection and as otherwise specified in R.S. 33:2212.1, provisions of this Subpart shall apply to municipalities having a population of not less than twelve thousand nor more than two hundred fifty thousand.

In addition, La. R.S. 33:2212(A) provides:

Except as otherwise provided by law, the governing body of each municipality having a population of not less than twelve thousand nor more than two hundred fifty thousand shall pay each employee of its police department a salary of not less than the minimum rate of pay established in accordance with the grades, ranks or classes of positions as provided in this Section.

¹ The Village of French Settlement is a Lawrason Act Municipality (See La. R.S. 33:321-463), with a population of approximately 1,100.

In interpreting these statutes, this office has opined for many years that La. R.S. 33:2211 limits the applicability of La. R.S. 33:2211 *et seq.*, encompassing R.S. 33:2212 through R.S. 33:2216, to only those municipalities with populations exceeding twelve thousand but less than two hundred fifty thousand.² Accordingly, this office opines that La. R.S. 33:2212(B), and La. R.S. 33:2212 through La. R.S. 33:2216 do not apply to the Village of French Settlement as it has a population of approximately 1,100.

As to whether an exempt municipality is not required to wait 86 hours to pay law enforcement overtime, we note that it is the policy of this office to decline to give opinions on the application of federal law. However, we note that the United States Department of Labor released a relevant fact sheet that provides general information concerning the application of the Fair Labor Standards Act to law enforcement and fire protection personnel of State and local governments.³ The fact sheet states that under Section 7(k) of the Fair Labor Standards Act, law enforcement personnel must receive overtime after 86 hours worked during a 14-day work period.

This office has opined that a municipality that possesses an ordinance governing law enforcement overtime is obliged to abide by both the ordinance and the guidelines provided in the Fair Labor Standards Act.⁴ According to the fact sheet released by the United States Department of Labor, a municipality must pay overtime to law enforcement after 86 hours worked during a 14-day work period to comply with the FLSA. However, if an ordinance requires overtime payment to law enforcement before the 86 hours worked in a 14-day period, the town ordinance must be followed as the municipality must adhere to its own ordinance. Consequently, it is the opinion of this office that, if a town ordinance requires law enforcement overtime to be paid in fewer hours worked than the FLSA overtime hour guideline, the ordinance must be followed.

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

With best regards,

LIZ MURRILL
ATTORNEY GENERAL

BY: Chimène St. Amant
CHIMÈNE ST. AMANT
ASSISTANT ATTORNEY GENERAL

LM:CS

² See La. Atty. Gen. Op. Nos. 13-0052; 12-0063; 80-449, 84-401, 96-69.

³ See <https://www.dol.gov/agencies/whd/fact-sheets/8-flsa-police-firefighters>

⁴ See La. Atty. Gen. Op. Nos 10-0154, 01-0280.