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September 30, 2024
OPINION 24-0106

Mr. Henry D.H. Olinde
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62-B – LEGISLATURE – Acts & Bills

La. C.C. art. 8 La. R.S. 1:3

Answers questions relating to conflicting acts passed
in the same legislative session.

Dear Mr. Olinde:

Our office received an opinion request from you regarding a possible conflict between Acts 537 and 672 of the 2024 Regular Legislative Session.

Prior to 2024 Regular Legislative Session, the Louisiana Firefighters' Retirement System (FRS) Board of Trustees (Board) had eleven total members. Acts 537 and 672 of the 2024 Regular Legislative Session both purported to add an additional member to the FRS Board. If both acts were to be effective, Board membership would total thirteen. However, both acts also *limit* the number of Board members to twelve members. Thus, there appears to be an apparent conflict between the acts.

Question: Do Acts 537 and 672 of the 2024 Regular Legislative Session conflict with each other, and, if so, which Act prevails?

Conclusion: Acts 537 and 672 of the 2024 Regular Legislative Session conflict with each other and cannot be harmonized. As the latest expression of legislative will, Act No. 672 prevails and the twelfth member of the FRS Board should be a member of the Louisiana Fire Chiefs Association.

Act 537 began as HB 40 and was sponsored by Representative Dodie Horton. It amended La. R.S. 11:2260(A)(2) and (e) to provide that there would be twelve trustees on the FRS Board and that the twelfth member would be a retiree, elected by a majority vote of the retired members and beneficiaries of the system for a term of five years. La. R.S. Act 537 was signed by the governor on June 10, 2024, and became effective on his signature.

Act 672 began as HB 13 and was sponsored by Representative Julie Emerson. It also amended La. R.S. 11:2260(A)(2) to provide that there would be twelve trustees on the FRS Board; however, it amended R.S. 11:2260(A)(2)(b) to specify that the twelfth member would be a member of the Louisiana Fire Chiefs Association, who are members of the system and who shall be elected by a majority of the officers of the association for

a five-year term. Act 672 was signed by the governor on June 19, 2024, and became effective on August 1, 2024.

Louisiana Civil Code article 8 provides that a law is repealed by implication when a new law contains provisions that are contrary to, or irreconcilable with, those of the former law. However, there is a strong presumption against implied repeal because it is presumed that, when enacting legislation, the legislature envisions the whole body of law and acts with full knowledge of all existing laws on the same subject matter. *State v. St. Julian*, 221 La. 1018, 1023, 61 So.2d 464, 465 (1952); *State v. Piazza*, 596 So.2d 817, 819 (La. 1992). As a result, when reasonably possible, legislation should be harmonized so that effect is given to all acts. *State v. Piazza*, at 820.

When considering possibly conflicting legislation enacted at the same legislative session, the Louisiana Supreme Court stated the following:

[W]hen inconsistent amendments to the same statute have been adopted at the same legislative session, the court should attempt to construe the statute so as to give effect to both amendments consistent with legislative intent. Only when it is impossible to give effect to both amendments should the court allow the time of passage of the acts to be the controlling factor. Allowing the later act to control effectively recognizes a repeal by implication of the earlier act, and such recognition of a repeal by implication should occur only when the acts passed in the same session are so repugnant that they cannot stand together.

Id.

Acts 537 and 672 were both passed during the 2024 Regular Legislative Session. While both acts attempt to add a member to the FRS Board, both acts also state that the FRS Board “shall consist of twelve members.” Louisiana Revised Statute 1:3 states that the word “shall” is mandatory. As a result, membership of the FRS Board may not total any number other than twelve. As stated above, if both acts were to be given effect, FRS Board membership would total thirteen. Therefore, Acts 537 and 672 are in conflict with one another.

When two conflicting laws are enacted in the same legislative session, the act that was the latest expression of legislative will is the one that should be given effect. *State v. St. Julian*, at 1025; *State v. Piazza*, at 819. See also *State in Interest of Wright*, 408 So.2d 1123, 1124-25 (La. App. 1 Cir.1981); *Metals USA Plates & Shapes Southeast, Inc. v. Louisiana Dep’t of Revenue*, 2017-699, p. 8 (La. App. 3 Cir. 3/21/18), 240 So.3d 1016, 1022, writ denied, 2018-0635 (La. 8/31/18), 251 So.3d 412; *Metals USA Plates & Shapes Southeast, Inc. v. Robinson*, 17-421, p. 5 (La. App. 5 Cir. 12/27/18), 263 So.3d 1229, 1232.

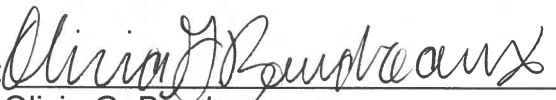
Act 537 of the 2024 Regular Legislative Session was last acted on by the legislature on May 28, 2024, when the House of Representatives, by a vote of ninety-three (93) yeas

and zero (0) nays, concurred in the amendments adopted by the Senate. Act 672 of the 2024 Regular Legislative Session was last acted on by the legislature on May 31, 2024, when the Senate, by a vote of thirty-eight (38) yeas and zero (0) nays, adopted a Conference Committee Report. Therefore, the legislature acted last on Act 672 of the 2024 Regular Legislative Session, making it the latest expression of legislative will. As a result, Act 672 is the act that should be given effect and the twelfth member of the FRS Board should be a member of the Louisiana Fire Chiefs Association.

We trust that this opinion of the Attorney General adequately responds to your inquiry. However, if our office can be of further assistance, please do not hesitate to contact us.

With best regards,

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BY: 
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