



RICHARD P. LEYOUS
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
BATON ROUGE
70804-9095

One American Place
301 Main Street, Suite 600
P.O. Box 94005
TEL.: (504) 342-7013
FAX: (504) 342-2090

August 18, 1998
OPINION NUMBER 98-253

Mr. James H. "Jim" Brown
Commissioner of Insurance
State of Louisiana
P.O. Box 94214
Baton Rouge, LA 70804-9214

109 - State - Employees & Departments
LSA-R.S. 36:662(4)
LSA-R.S. 36:682

The Department of Insurance is exempt from Executive Order MJF 96-79 dealing with unclassified state employee leave. The Department has the authority to establish its own leave policies for all unclassified employees within its system.

Dear Commissioner Brown:

Your request for an Attorney General's Opinion has been forwarded to me for research and reply. You question whether the Department of Insurance has the authority to establish a leave policy for its unclassified employees.

In your letter you mention Executive Order BR-88-23. That order stated that the rules and policies established by that order were applicable to all officers and employees in unclassified state service including all employees of the Executive Office within the Office of the Governor, with certain exceptions. One of the exceptions listed included, "employees of a system that is authorized by the Constitution or legislative act to manage and supervise its own system".

More recently, Executive Order MJF 96-79, dealing with unclassified state employee leave, stated that the order was applicable to all officers and employees in the unclassified service of the Executive Branch of the State of Louisiana, "except elected officials and officers and employees of a system that is authorized by the Constitution or legislative act to manage and supervise its own system".

In Attorney General Opinion No. 89-216, a copy of which is attached hereto, we held that the Department of Elections and Registration was excluded from the application of Executive Order No. BR-88-23. The opinion held that the Commissioner of Elections by legislative act is authorized to "organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department". LSA-R.S. 36:662(4). In that opinion, we held that such legislative act gave the Commissioner of Elections the authority to manage and supervise the Department of Elections and Registration and fell within the exception provided by Section 1.7 of Executive Order BR-88-23.

Mr. James H. "Jim" Brown
OPINION NUMBER 98-253
Page ~2~

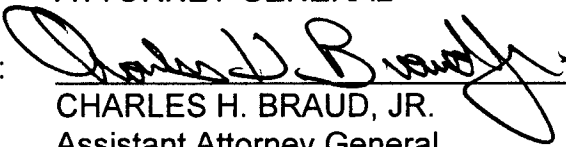
Also, by legislative act, the Commissioner of Insurance is authorized to, "organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department, in the manner and to the extent provided in this title". LSA-R.S. 36:682.

It is our opinion that such legislative authorization falls within the exception provided by Executive Order MJF 96-79, which excludes application of the order to, ". . . elected officials and officers and employees of a system that is authorized by the Constitution or legislative act to manage and supervise its own system".

I trust this sufficiently addresses your concerns. If our office may be of further assistance, please do not hesitate to contact us.

Yours very truly,

RICHARD P. IEYOUB
ATTORNEY GENERAL

By: 
CHARLES H. BRAUD, JR.
Assistant Attorney General

RPI:CHB:glb

State of Louisiana

DEPARTMENT OF JUSTICE

Baton Rouge

70804

WILLIAM J. GUSTE, JR.
ATTORNEY GENERAL

APRIL 17 1989

OPINION NUMBER 89-216

OPINION NO. 89-216

92-A-1 Registrar of Voters
LSA-R.S. 36:662
Executive Order BR-88-23
La. Const. Art. 11, Sec. 1

Registrar of Voters and their
employees are exempt from the application
of Executive Order BR-88-23.

Mr. Robley P. "Shine" Domingue
Baton Rouge, LA

Henry A. Barham, III

Mr. Robley P. "Shine" Domingue
Assistant Commissioner of Election
P. O. Box 14179
Baton Rouge, LA 70890-4179

Dear Mr. Domingue:

You have requested an opinion of this office as to the effect of Executive Order BR-88-23 on Parish Registrars of Voters and their unclassified employees.

It is our opinion, in keeping with Op. Atty. Gen. No. 79-998, that registrars of voters are officers of the state government rather than parish government.

The Constitution of 1974, provides in Article 11, Section I:

"The legislature shall adopt an election code which shall provide for permanent registration of voters and for the conduct of all elections."

Pursuant to this constitutional authority, the legislature enacted a revised Election Code, which provides for the appointment of a registrar of voters in each parish by the governing authority subject to supervision and dismissal by the State Board of Election Supervisors. LSA-R.S. 18:51,53.

The functions of the registrars and their offices are subject to the rules and regulations of the Department of Elections and Registration, a part of the executive branch of state government. Const. Art. 4, Sec. 12; LSA-R.S. 36:662.

Mr. Robley P. "Shine" Domingue
Opinion No. 89-216
Page -2-

Executive Order No. BR-88-23 governs the earning and use of leave by officers and employees in the unclassified state service. Its application includes all appointees on leave without pay from classified positions and all employees of the Executive Office within the Office of the Governor. The Executive Order lists ten (10) exceptions to its application. Included in these exceptions is Section 1.7 which excludes the application of the order to:

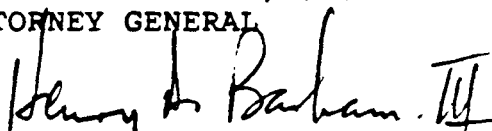
"Employees of a system that is authorized by the constitution or legislative act to manage and supervise its own system."

By legislative act, the Commissioner of Elections is authorized to, "Organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department." LSA-R.S. 36:662(4). We are of the opinion that this legislative act gives the Commissioner of Elections the authority to manage and supervise the Department of Elections and Registration which encompasses the parish registrar of voters and the employees of the various registrars.

Accordingly, by virtue of Section 1.7 of Executive Order No. BR-88-23, the Registrars of Voters and their employees are exempt from the application of Executive Order No. BR-88-23.

Very truly yours,

WILLIAM J. GUSTE, JR.
ATTORNEY GENERAL


Henry A. Barham, III
Assistant Attorney General

HAB:ec

*for
CJ*