

## Chapter 16

# EMPLOYMENT PROVISIONS IN FEDERAL AND STATE LAWS

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*This chapter provides a summary of selected federal and state laws concerning municipal employees and their employment. The following sections are meant to be guidelines only. You should consult your city attorney or other competent legal counsel regarding employment matters affecting your municipality.*

### THE LAWRASON ACT

**Appointment and removal.** Subject to state law, ordinance, and civil service rules, the mayor appoints and removes employees, other than employees of the police department if there is an elected chief of police. However, the appointment or removal of a non-elected chief of police, clerk, attorney, or any department head, is subject to approval by the board of aldermen. With a tied vote, the mayor's recommendation prevails [R.S. 33:404(A)(3)].

**Compensation.** The board of aldermen must, by ordinance, fix the compensation of officers [R.S. 33:404.1].

**Personnel policies and procedures.** The board of aldermen must, by ordinance, provide policies and procedures regulating employment, including the hiring and firing of employees, subject to state law and applicable civil service rules [R.S. 33:362(A)(3)].

**Police personnel.** An elected chief of police makes recommendations to the mayor and board for the appointment of police personnel, for the promotion of officers, to effect disciplinary action, and for dismissal of police personnel. Such recommendations are to be made regardless of race, color, disability, or creed [R.S. 33:423(A)].

**Supervision.** The mayor is to supervise and direct the administration and operation of all municipal departments, offices, and agencies, other than a police department with an elected chief of police, in conformity with ordinances and state law. All administrative staff are subordinate to the mayor [R.S. 33:404(A)(1)].

The mayor may delegate his administrative duties [R.S. 33:404(A)(2)].

## **OTHER FEDERAL AND STATE LAWS**

### **Age discrimination (20 or more employees) (RS 23:311).**

A municipality may not:

(1) Fail or refuse to hire, or to discharge, any individual or otherwise discriminate against any individual with respect to his compensation, or his terms, conditions, or privileges of employment because of the individual's age.

(2) Limit, segregate, or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee because of the individual's age.

(3) Reduce the wage rate of any employee in order to comply with this Part.

However, it is not unlawful for an employer, employment agency, or labor organization to engage in any of the following practices:

(1) Take any action otherwise prohibited under Subsection A, B, C, or E, where age is a bona fide occupational qualification reasonably necessary for the normal operation of the particular business, or where the differentiation is based on reasonable factors other than age (29 U.S.C. 621, et seq. and R.S. 23:312)

(2) Take any action otherwise prohibited under Subsection A, B, C, or E to observe the terms of a bona fide seniority system or any bona fide employee benefit plan, such as retirement, pension, or insurance plan, which is not a subterfuge to evade the purposes of this Part except that no such employee benefit plan shall excuse the failure to hire any individual.

(3) Discharge or otherwise discipline an individual for good cause.

**Assignment of wages.** A municipality may not discharge or deny employment because of a voluntary assignment of wages [R.S. 23:731©)].

**Civil service.** Any municipality may establish a civil service system (*Louisiana Constitution*, Article X, Section 15). A system is provided for municipalities with a population of more than 100,000 [R.S. 33:2391 et seq.]. A municipality with a population exceeding 10,000 may elect to be governed by Part I of Article X of the Constitution, which establishes city civil service, upon the majority vote of its electors [*Louisiana Constitution*, Article X, Section 14].

With regard to **police and fire personnel**, Article X, Section 16 of the Constitution establishes a system of classified fire and police civil service in all municipalities with a population exceeding 13,000 that operate a regularly paid fire and municipal police department [R.S. 33:2471 et seq.]. Also, there are fire and police civil service laws for municipalities with a population of not less than 7,000 and not more than 13,000 [R.S. 33:2531 et seq.].

**Disabled discrimination.** A municipality with 20 or more employees (R.S. 23:302(2)) may not discriminate.

A. No otherwise qualified disabled person shall, on the basis of a disability, be subjected to discrimination in employment.

B. An employer, labor organization, or employment agency shall not engage in any of the following practices:

(1) Fail or refuse to hire, promote, or reasonably accommodate an otherwise qualified disabled person on the basis of a disability, when it is unrelated to the individual's ability, with reasonable accommodation, to perform the duties of a particular job or position.

(2) Discharge or otherwise discriminate against an otherwise qualified disabled person with respect to compensation or the terms, conditions, or privileges of employment on the basis of a disability when it is unrelated to the individual's ability to perform the duties of a particular job or position.

(3) Limit, segregate, or classify an otherwise qualified disabled person in a way which deprives the individual of employment opportunities or otherwise adversely affects the status of the individual on the basis of a disability when it is unrelated to the individual's ability to perform the duties of a particular job or position.

(4) Fail or refuse to hire or to promote an otherwise qualified disabled person on the basis of physical or mental examinations or preemployment interviews that are not directly related to the requirements of the specific job, or which are not required of all employees or applicants.

(5) Discharge or take other discriminatory action against an otherwise qualified disabled person on the basis of physical or mental examinations or preemployment interviews that are not directly related to the requirements of the specific job, or are not required of all employees or applicants.

(6) Fail or refuse to hire or to promote an otherwise qualified disabled person when adaptive devices or aids may need to be utilized to enable that individual, at the individual's own expense, to perform the specific requirements of the job.

(7) Discharge or take other discriminatory action against an otherwise qualified disabled person when adaptive devices or aids may need to be utilized to enable that individual, at the individual's own expense, to perform the specific requirements of the job.

(8) Make or use a written or oral inquiry or form of application that elicits, or attempts to elicit, information concerning the disability of a prospective employee for discriminatory purposes contrary to the provisions or purposes of this Part.

(9) Make or keep a record of information, or disclose information, concerning the disability of a prospective employee for discriminatory purposes contrary to the provisions or purposes of this Part.

(10) Make or use a written or oral inquiry or form of application that expresses a preference, limitation, or specification based on the disability of a prospective employee for discriminatory purposes...etc.” (LRS 23:323 and Title I of the American with Disabilities Act of 1990, 42 U.S.C. 12111, et seq.)

### **Discrimination -Race, Color, Religion, Sex and National Origin**

A municipality with **20 of more employees** may not discriminate (R.S. 23:302(2)):

A. It shall be unlawful discrimination in employment for an employer to engage in any of the following practices:

(1) Intentionally fail or refuse to hire or to discharge any individual, or otherwise to intentionally discriminate against any individual with respect to his compensation, or his terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, or national origin.

(2) Intentionally limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities, or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, or national origin.

B. It shall be unlawful discrimination in employment for an employment agency to intentionally fail or refuse to refer for employment, or otherwise to intentionally discriminate against, any individual because of his race, color, religion, sex, or national origin, or to intentionally classify or refer for employment any individual on the basis of his race, color, religion, sex, or national origin. (RS 23:332)

Federal Law provides a municipality may not discriminate:

(1) In hiring, firing, compensation and terms, conditions or privileges of employment on the basis of **race, color, religion, disability, sex, pregnancy, or national origin**. Discrimination is permitted on the basis of sex, religion, or national origin where such factor is reasonably necessary to the normal operation of the employer's business, a bona fide occupational qualification (BFOQ). Race cannot be a BFOQ. "Sex" includes discrimination against women because of or on the basis of **pregnancy, childbirth, or related medical conditions** (Title VII of the Civil Rights Act of 1964, 40 U.S.C. § 2000(e) et seq.).

(2) Against or in favor of any person with respect to his compensation, terms, conditions, or privileges of employment or intentionally limit, segregate, or classify an employee in any way which would deprive any individual of employment opportunities, give a favor or advantage to one individual over another, or otherwise adversely or favorably affect his status as an employee, because of **race, color, religion, sex, disability, or national origin** [R.S. 23:1006(B)].

For a municipality with **more than 25 employees** (RS 23:341) the statutes provide:

RS 23:342 Unlawful practice by employers prohibited; pregnancy, childbirth, or related medical condition; benefits and leaves of absence; transfer of position

It shall be an unlawful employment practice unless based upon a bona fide occupational qualification:

(1) For any employer, because of the pregnancy, childbirth, or related medical condition of any female employee, to refuse to promote her, or to refuse to select her for a training program leading to promotion, provided she is able to complete the training program at least three months prior to the anticipated date of departure for her pregnancy leave, or to discharge her from employment or from a training program leading to promotion, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.

(2) For any employer to refuse to allow a female employee affected by pregnancy, childbirth, or related medical conditions either:

(a) To receive the same benefits or privileges of employment granted by that employer to other persons not so affected who are similar in their ability or inability to work, including to take disability or sick leave or any other accrued leave which is made available by the employer to temporarily disabled employees.

(b) To take a leave on account of pregnancy for a reasonable period of time, provided such period shall not exceed four months. Such employee shall be entitled to utilize any accrued vacation leave during this period of time. "Reasonable period of time" means that period during which the female employee is disabled on account of pregnancy, childbirth, or related medical conditions. Nothing herein shall be construed to limit the provisions of R.S. 23:341(C) or Subparagraph (2)(a) of this Section. An employer may require any employee who plans to take a leave pursuant to this Section to give the employer reasonable notice of the date such leave shall commence and the estimated duration of such leave.

(3) For an employer who has a policy, practice, or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability to refuse to transfer a pregnant female employee who so requests.

(4) For any employer to refuse to temporarily transfer a pregnant female employee to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where such transfer can be reasonably accommodated, provided, however, that no employer shall be required by this Part to create additional employment which the employer would not otherwise have created, nor shall such employer be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job."

**Drug testing.** A municipality, pursuant to written policy, and to determine the presence of marijuana, opiates, cocaine, amphetamines, and phencyclidine, may require:

(1) As a condition of continued employment, testing of an employee for the presence of drugs (a) following an accident during the course and scope of his employment, (b) under other circumstances which result in reasonable suspicion that drugs are being used, or (c) as a part of a monitoring program established to assure compliance with a rehabilitation agreement.

(2) As a condition of hiring, testing of prospective employees.

(3) Random drug testing of employees who occupy safety-sensitive or security-sensitive positions [R.S. 49:1015].

**Dual employment.** Municipal employees and officials are subject to the Dual Employment/Dual Officeholding Law [R.S. 42:61 et seq.].

**Ethics.** Municipal employees and officials are subject to the Code of Governmental Ethics [R.S. 42:1101 et seq.].

**Final wages payment.** A municipality must pay the amount due an employee who is discharged on or before the next regular payday or no later than within fifteen days following the date of discharge whichever occurs first [R.S. 23:631(A)(1)(a)]. A municipality must pay the amount due an employee who resigns on or before the next normal payday or no later than fifteen (15) days following the date of the resignation, whichever occurs first [R.S. 23:631(A)(1)(b)].

**Firefighting personnel.** Special laws apply to paid fire departments operated by a municipality with a population of 13,000 or more [R.S. 33:1961-1975]. Maximum hours [R.S. 33:1994]. Sick leave [R.S. 33:1995]. Annual vacation [R.S. 33:1996]. Work on holidays [R.S. 33:1999].

Minimum salaries of firemen in municipalities with a population of 12,000 or more are set by law [R.S. 33:1992].

**Supplemental pay.** The state provides supplemental pay for certain paid municipal firemen [R.S. 33:2002].

**Disability and relief fund.** A municipality with a population of less than 25,000 and maintaining a regular fire department with equipment of the value of not less than \$1,000 may call an election to determine whether to create a system of disability and relief payments for its firemen [R.S. 33:2021 et seq.].

**Garnishment.** A municipality may not:

(1) Discharge solely because the employee's earnings have been garnished for any one indebtedness [15 U.S.C. §1674].

(2) Discharge or deny employment because of a single garnishment of wages. A person may be discharged if his earnings are subjected to three or more garnishments for unrelated debts in a two-year period, but no garnishment resulting from an accident or illness causing a person to miss 10 or more consecutive days at work can be considered [R.S. 23:731(C)].

**Hiring.** A municipality must verify the employment authorization of newly hired employees. Two types of documentation are required: documentation of right to work and documentation of identity [Immigration Reform and Control Act of 1986, 8 U.S.C. §1324a].

**Insurance.**

(1) A municipality with 20 or more employees must extend the option of continued health insurance to each employee, spouse, and dependent who otherwise would lose such coverage as a consequence of the employee's termination or specified circumstances [Consolidated Omnibus Budget Reconciliation Act (COBRA), 29 U.S.C. §1161 et seq.].

(2) Any municipality may:

(a) Contract to insure its employees and officials under group policies for hospitalization, and retirement and match the payments of the employees and officials for the premiums or charges for the contract [R.S. 33:5151].

(b) Contract to insure its officers, employees, agents, and officials under group policies, against any personal liability that may arise as a result of their actions taken within the scope and discharge of their duties [R.S. 33:5153].

(c) Procure contracts of group life insurance and group accidental death and dismemberment insurance for its employees, officials, and department heads or any class or classes thereof, and the dependents of such employees, officials, or department heads, or adopt, administer, operate or contract for the administration, or both, of a self-funded program for that purpose. The municipal contribution cannot exceed 50 percent of the total premium [R.S. 42:821(A)].

(d) Procure private contracts of group health, accident, accidental death and dismemberment, and hospital, surgical, or medical expense benefits for its employees, officials, and department heads or any class or classes thereof, and the dependents of such employees, officials, or department heads or adopt, administer, or operate or contract for all or a portion of the administration, or both, of a self-funded program for that purpose [R.S. 42:851].

**Jury duty.**

(1) A municipality may not discharge, intimidate, or coerce any full-time employee for serving on a federal jury. Time off for jury duty must be treated as a leave of absence and employees must be reinstated without loss of seniority, insurance, or other benefits [Jury Service and Selection Act of 1968, 28 U.S.C. §1875].

(2) A municipality may not discharge or otherwise subject to any adverse employment action any employee called to serve, or who is serving on, any grand jury or on any jury at any criminal or civil trial in state court, provided the employee notifies his or her employer of such summons within a reasonable period of time after receipt of a summons and prior to his or her appearance for jury duty. In addition, a municipality must grant leave to a regular employee of up to one day for that period of time required for such jury duty. The leave is to be granted without loss of wages, or sick, emergency, or personal leave, or any other benefit [R.S. 23:965].

**Labor standards.** Under the Fair Labor Standards Act (FLSA), a covered employee is any employee other than an employee who is not subject to civil service laws of the municipality and who either (1) holds an elected office, (2) is selected by an elected office holder to be a member of his personal staff, (3) is appointed by an officeholder to serve on a policy making level, (4) is an immediate advisor to such an officeholder with respect to the constitutional or legal powers of his office, or (5) is an employee of the legislative body of the municipality and not employed by the legislative library of the municipality. (29 U.S.C. 201 et seq.)

Employees must be paid the federal minimum wage (***\$5.85 per hour effective July 24, 2007 -Increases to \$6.55 hr on 7/24/08 and finally to \$7.25 hr on 7/24/09***) [29 U.S.C. 206(a)].

Wage differential on the basis of sex is prohibited. However, unequal pay is permitted under certain circumstances, such as superior education levels or extensive experience [Equal Pay Act of 1963, 29 U.S.C. §206]. See next paragraph for federal law.

(1) No employer having employees subject to any provisions of this section shall discriminate, within any establishment in which such employees are employed, between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions, except where such payment is made pursuant to (i) a seniority system; (ii) a merit system; (iii) a system which measures earnings by quantity or quality of production; or (iv) a differential based on any other factor other than sex: Provided, that an employer who is paying a wage rate differential in violation of this subsection shall not, in order to comply with the provisions of this subsection, reduce the wage rate of any employee.”

Generally, overtime must be paid after 40 hours of work per week at the rate of time-and-one-half the employee's basic rate. However, a municipality may allow compensatory time, with agreement of employee or labor union, instead of overtime compensation for its employees which must be granted at a rate of not less than one-

and- one-half hours of compensatory time for each hour of overtime worked. Generally, employees may accrue up to 240 hours of compensatory time. However, employees in public safety, emergency response, and/or seasonal activities may accrue up to 480 hours. In either case, thereafter, the employee must receive overtime pay. An employee who has accrued compensatory time and who has requested the use of the time must be permitted to use the time within a reasonable period after making the request, if the use of the time does not unduly disrupt the operations of the municipality. At termination of employment, an employee who has accrued compensatory time must be paid for the unused compensatory time at a rate not less than the average regular rate received during the last three years of employment or the final regular rate received by the employee, whichever is higher.

### **Fire protection employees and law enforcement officers**

Municipalities may select special “work periods” of not less than seven (7) days nor more than 28 days for certain employees engaged in fire protection or law enforcement activities. Straight-time compensation may be paid up to the maximum by salary or hourly rate. Hours in excess of the maximum of the selected “work period” must be compensated at time and one half (1.5-1) by compensatory time or pay. Table 16-A (see page 16-15) denotes maximum hours of the various work periods that may be selected [29 U.S.C. 207(k) and CFR part 553.230] .

R.S. 33:1994 adopts the same maximum hours for employees engaged in fire protection. However, R.S. 33:2213 limits the use of these work periods for law enforcement personnel in certain municipalities; those with populations in excess of 7,000 and those specifically named in the section or by the “catch-all” subsection R.S. 33:2213(H). Some municipalities are granted the full use of a 28-day cycle, others are limited to a 14-day cycle. All require overtime to be paid at time-and-one-half for any hours over an average of 40 hours per week in the respective cycle.

Municipalities with a population under 7,000 are not covered by R.S. 33:2213 and are only required to pay law enforcement personnel overtime in accordance with the FLSA (See Table 16-A, page 16-15).

A complete exemption from FLSA is applicable to any public entity employing less than five (5) personnel in law enforcement or fire protection [29 U.S.C. 213(b)(20)].

NOTE: Ambulance and rescue personnel employees generally may be treated as employees engaged in fire protection or law enforcement activities under 29 U.S.C. 207(k) and 213(b)(20) if their services are substantially related to firefighting or law enforcement, they are regularly dispatched to fire or crime scenes, riots, natural disasters and accidents, and they have received the necessary training to perform law enforcement or firefighting activities.

NOTE: Employees engaged in “support activities” or “civilian” type employees, such as dispatchers, janitors, clerks or maintenance workers are generally not considered to be engaged in “law enforcement” or “fire protection” for purposes of either 29 U.S.C. 207(k) or 213(b)(20).

Section 207(k) employees generally must be paid for hours worked and those hours counted towards possible overtime, if the work is related to their job and required by their employer, even if paid by an outside source (i.e., an officer is required to appear in court in connection with his official duties, even if paid a witness fee by the court system).

Section 207(k) employees generally do not have to be paid by a municipality for hours spent:

- at home on call, “beeper” time
- training required by federal or state law
- outside employment for a separate and independent employer (if the work is voluntary during off-duty hours)
- some uninterrupted meal periods (even if not completely relieved of duty)
- for work solely at the employee’s option which is “occasional or sporadic” on a part-time basis in a different capacity from his normal employment [29 U.S.C. 207(p)(2)]
- overtime premium caused by the substitution or “trading time” between two employees solely at their option [29 U.S.C. 207(p)(3)]
- as a “volunteer” other than performing the “same type of services” as normally performed as an employee

### **Overtime compensation**

In lieu of providing compensatory time (time off or “K” time) for overtime hours, a municipality may elect to immediately compensate an employee for their overtime.

An employee paid an hourly rate is due time and one half his hourly rate for any overtime hours worked.

An employee paid on a salary basis for a scheduled number of hours is due time-and-one-half based on his regular rate of pay. This regular rate of pay is determined by dividing his salary by the number of hours the salary is intended to cover. *For example:* an employee paid a salary of \$400.00, intended to cover a 40-hour work week, would be entitled to \$15.00 per hour for every hour worked in excess of 40 hours ( $\$400 / 40 = \$10.00 \times 1.5 = \$15.00$ ).

An employee may also be paid a fixed salary for fluctuating hours. An employee on this basis need only be paid additional half-time (not time and one half) for any overtime hours because the salary is intended to cover all hours worked. *For example:* an employee is paid a salary of \$400.00 and works varying hours in three sample weeks (set forth below). The employee would be due the half-time overtime compensation as indicated:

Week 1	40 hours	salary fixed - paid \$400.00 (no overtime)
Week 2	50 hours	$\$400.00 / 50 = \$8.00$ (regular time) $\$8.00 \times .5 = \$4.00$ (half time) 50 hours - 40 hours = 10 hours (overtime worked) $\$4.00 \times 10 = \$40.00$ (overtime compensation) Total pay $\$400 + \$40.00 = \$440.00$
Week 3	60 hours	$\$400.00 / 60 = \$6.67$ (regular time) $\$6.67 \times .5 = \$3.335$ (half time) 60 hours - 40 hours = 20 hours (overtime worked) $\$3.335 \times 20 = \$66.70$ (overtime compensation) Total pay $\$400 + \$66.70 = \$466.70$

NOTE: For this “fluctuating work week” basis of payment to be in compliance with the FLSA there must be an understanding that the salary will be paid for whatever hours the employee is called upon to work in a work week, whether more or less than 40 hours. The regular time calculation must always meet the minimum wage (\$5.15) and overtime must be paid at a minimum of one-half of the regular rate. Since the salary is based upon whatever hours are worked in the work week, deductions from the salary for days or hours scheduled but not worked is **not** permissible. That is, the employee may not be docked for missing a day or portion of a day of work. However, occasional deductions may be made as a disciplinary measure for willful absence or tardiness. Also, the salary can be pro-rated in an initial or terminal week of employment, and there is no obligation to pay the salary for a week in which no work is performed (i.e., the employee is out the entire week).

The “fluctuating work week” has been found well suited for employees in responsible positions, such as department heads that are relatively highly paid “to get the job done” rather than to put in some specific number of hours per week, and, for some reason, are not exempt from recording hours, minimum wage, and overtime standards. It provides an opportunity to pay at a higher fixed base salary than could be afforded if time-and-one-half overtime had to be paid.

### **Exemptions for Supervisors, Administrators, and Professional Employees**

The FLSA, in Regulation 541 (541 Exemptions) outlines the structure and criteria associated with eligibility for exempt status. Employees meeting one of these exemptions would not be subject to the minimum wage or overtime requirements of the FLSA:

**Section 541.1** is the exemption for “management” technically called the “bona fide executive” exemption. To be eligible for such an exemption, an employee must manage as a customarily recognized department or subdivision thereof, and supervise the work of two or more employees, and customarily and regularly exercise discretionary powers, and be found to be employed primarily in those activities (i.e., normally\* spends over 50% of his time in “exempt” duties and less than 50% of his time in non-supervisory activities), and be paid on a salary basis of at least \$455.00 per week\*

**Section 541.2** outlines the “bona fide administrative” exemption. This generally involves individuals who are engaged in non-manual work (white collar) which is generally directly related to management policies or general business operations of the employer (as opposed to the “productive work” of the employer). “Productive work” is that work or service the employer is in business to produce or perform. The use of independent judgement and discretion with regards to matters of significance is a requirement. A salary of at least \$455.00 per week is required. A classic example of a stereotypical position eligible for this exemption would be that of a human resource director.

**Section 541.3** is applicable to employees employed in a bona fide “professional capacity” whose primary duty consists of the performance of work requiring knowledge of an advanced type on a field of science or learning customarily acquired by a prolonged course of specialized instruction and study, distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes. Certified public accountants and attorneys are common examples of this type of employee. A salary, or compensation on a fee basis, of at least \$455.00 per week is required.

**Section 541.4** Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field may be exempt if their primary duty consists of the application of systems analysis techniques and procedures, including consulting with users, the design, development, documentation, analysis, testing, etc. of systems or programs involving substantial skills. The exemption is not applicable to those employees whose work is highly dependent upon the use of computers or software but who are not primarily engaged in systems analysis or programming. The salary test for this exemption is either a salary or fee basis of \$455.00 per week or an hourly basis of not less than \$27.63 per hour.

**Leave.** A municipality must:

(1) Provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons [Family and Medical Leave Act of 1993, 29 U.S.C. §2601 et seq.].

(2) Give an employee returning from U.S. military service the same wages, benefits, and rights as the employee would have received had the employee not left. Employees must reapply within 90 days of release from service [Federal Military Selective Service Act, 38 U.S.C. §4304].

(3) Give leave, without loss of pay, time, annual leave, or efficiency rating, to employees who are members of the U.S. military forces on all days during which they are ordered to duty with troops or at field exercises, or for instruction, not to exceed 15 days in any one calendar year. When relieved from duty, they are to be restored to the positions held by them when ordered to duty [R.S. 42:394].

(4) May grant an employee leave from work of up to 16 hours during any 12-month period to attend, observe, or participate in conferences or classroom activities related to the employee's dependent children for whom he is the legal guardian that are conducted at the child's school or day care center, if the conferences or classroom activities cannot be reasonably scheduled during the non-work hours of the employee. The municipality is not required to pay an employee for any time taken as this type of leave [R.S. 23:1015 et seq.].

(5) Grant leave without loss or reduction of pay, time, annual leave, or efficiency rating to any employee who qualifies as a member of the U.S. team for athletic competition on the world, Pan American, or Olympic level in a sport contested in either Pan American or Olympic competition for the purpose of preparing for and engaging in competition. However, the paid leave may not exceed the period of the official training camp and competition combined or 90 calendar days, whichever is less. If the employee's absence requires hiring a substitute, the state must reimburse the municipality for actual costs incurred in employing the substitute [R.S. 42:431 et seq.].

**Merit awards.** A municipality may grant merit awards to full-time permanent employees. The governing body must adopt and maintain a written plan to encourage and reward unusual and meritorious suggestions, actions, procedures, and accomplishments by its employees which promote economy and efficiency. An award may not exceed \$2,000.00 cash or a corporeal movable with a fair market value of \$1,200 [R.S. 33:1891 et seq.].

**Police personnel.** Certain provisions apply to the paid police department of a municipality with a population of 50,000 or more [R.S. 33:2191 et seq.].

Certain provisions apply to municipalities with a population of not less than 12,000 nor more than 250,000 [R.S. 33:2211 et seq.]. Minimum salaries [R.S. 33:2212]. Compensatory time [R.S. 33:2213.1]. Annual vacation and sick leave [R.S. 33:2214]. Work on holidays [R.S. 33:2214.1].

Minimum salaries are set for police in municipalities with a population between 7,000 and 12,000 [R.S. 33:2212.1].

**Supplemental pay.** Certain police personnel are paid supplemental pay by the state [R.S. 33:2218.2].

**Police training.** A peace officer must successfully complete a POST-approved certified training program and successfully pass a POST-approved comprehensive exam within one calendar year from the date of initial employment or he may be enjoined from exercising authority as a peace officer. This is also a precondition for receiving state supplemental pay. In villages of 1,000 or less, peace officers have two calendar years to comply. However, the officer may continue his duties and receive regular and supplemental pay if the village is unable to provide the requisite training because of a shortage of funds [R.S. 40:2405].

**Retirement.** A municipality may submit for approval an agreement for extending benefits through the Municipal Employees' Retirement System of Louisiana to its employees, including elected officials, actively employed on a basis of 35 hours per week [R.S. 11:1731 et seq.].

The Municipal Police Employees' Retirement System of Louisiana consists of full-time municipal police officers engaged in law enforcement [R.S. 11:2211 et seq.].

The Firefighters' Retirement System of Louisiana consists of full-time municipal firefighters, except for those municipalities which have their own retirement systems [R.S. 11:2251 et seq.].

A municipality with a population in excess of 90,000 may establish, by ordinance, a pension and retirement system for its appointive officers and employees and others [R.S. 11:3841].

A municipality with a population in excess of 20,000 but not exceeding 90,000 may establish, by ordinance, a pension and retirement system for its elective and appointive officers and employees [R.S. 11:3842].

A municipality with a population of 10,000 or more may establish, by ordinance, a pension plan for its officials and employees [R.S. 11:3851].

A municipality may adopt a group plan procured through an insurance company which allows for the purchase of annuities, life insurance, or mutual funds that qualify for deferred federal taxation benefits under Section 401(a) of the federal Internal Revenue Code [R.S. 42:871].

**Sickle cell trait discrimination.** A municipality with 20 or more employees may not discriminate against any person with respect to compensation, terms, conditions, or privileges of employment, or limit, segregate, or classify employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because the person has sickle cell trait [R.S. 23:352 et seq.].

**Smoking discrimination.** A municipality may not discriminate against any individual, with respect to discharge, compensation, promotion, any personnel action or other condition, or privilege of employment because the individual is a smoker or nonsmoker, or require, as a condition of employment, that an individual abstain from smoking or otherwise using tobacco products outside the course of employment, as long as the individual, during the course of employment, complies with applicable law and any adopted workplace policy regulating smoking [R.S. 23:966].

**Survivor benefits.** The spouses and dependent children of municipal law enforcement officers, firemen, and personnel who die as a result of injury sustained in the performance of official duties or in the protection of life or property while on or off duty receive survivor benefits [R.S. 33:1981].

**Unemployment compensation.** A municipality may not discriminate in regard to the hiring or tenure of work or any term or condition of work of any individual on account of his claiming unemployment compensation benefits [R.S. 23:1691].

**Wage deductions.** Upon written authorization by an employee, a municipality may deduct:

- (1) Premiums payable for group health insurance and retirement [R.S. 33:5152]

(2) Premiums payable for group life insurance and group accidental death and dismemberment insurance [R.S. 42:822]

(3) Premiums payable for group health, accident, accidental death and dismemberment, and hospital, surgical, or medical expense benefits insurance [R.S. 42:851]

(4) Contributions for group plans which allow for the purchase of annuities, life insurance, or mutual funds which qualify for deferred federal taxation benefits under Section 401(a) of the federal Internal Revenue Code [R.S. 42:871]

(5) Union dues for the regular employees [R.S. 42:457]

A municipality must deduct from an employee's wages:

(1) Court-ordered support payments [R.S. 46:236.3]

(2) Court-ordered garnishment payments [R.S. 13:3921 et seq.]

(3) Dues to a professional state or local law enforcement or firefighter association located or operating a chapter within the jurisdiction and to which the employee belongs [R.S. 42:457.1]

**Worker's compensation.**

(1) A municipality must provide coverage for its employees and may provide coverage for its officials [R.S. 23:1034].

(2) A municipality may not refuse to employ an applicant, or discharge an employee, because the applicant has asserted a claim for worker's compensation benefits [R.S. 23:1361].

WORK PERIOD (DAYS)	MAXIMUM HOURS FIRE PERSONNEL	MAXIMUM HOURS LAW ENFORCEMENT FLSA	MAXIMUM HOURS LAW ENFORCEMENT RS 33:2213
28	212	171	160
27	204	165	N/A
26	197	159	N/A
25	189	153	N/A
24	182	147	N/A
23	174	141	N/A
22	167	134	N/A
21	159	128	N/A
20	151	122	N/A
19	144	116	N/A
18	136	110	N/A
17	129	104	N/A
16	121	98	N/A
15	114	92	N/A
14	106	86	80
13	98	79	N/A
12	91	73	N/A
11	83	67	N/A
10	76	61	N/A
9	66	55	N/A
8	61	49	N/A
7	53	43	40