

Chapter 8

LAGNIAPPE: PUBLIC UTILITIES, PERSONNEL MATTERS, AND RETIREMENT

Reviewed January 2, 2009

PUBLIC UTILITIES

Municipalities are specifically authorized to construct, acquire, or improve any revenue-producing public utility, including electricity, gas, water, sewerage, and garbage-disposal services, within or outside its boundaries, and may operate and maintain the utility in the interest of the public [R.S. 33:4162].

As a result of this authority, 19 municipalities own their electrical distribution systems, approximately 90 municipalities own their natural gas distribution systems, and numerous municipalities own their water distribution and sewerage systems.

Municipalities also are authorized to establish rates, rules, and regulations regarding the distribution of such public utilities [R.S. 33:4163]. According to Article IV, Section 21 of the *Louisiana Constitution*, the Public Service Commission has no power to regulate any public utility owned, operated, or regulated on the effective date of the Constitution (December 31, 1974) by the governing authority of a political subdivision, except by the approval of the electors voting in an election held for that purpose.

Municipalities also are authorized to collect and dispose of garbage and to assess service charges therefor within their boundaries and to grant franchises to garbage collectors for such services, provided that exclusive franchises must be awarded in accordance with the provisions of the Public Bid Law [R.S. 33:4169.1].

PERSONNEL MATTERS

The board of aldermen of Lawrason Act municipalities, pursuant to R.S. 33:362, are required, by ordinance, to provide policies and procedures regulating the employment of municipal employees, including the hiring and firing of such employees. The mayor is empowered, subject to applicable state laws, ordinances, and civil service rules, to appoint and remove municipal employees, other than employees of a police department with an elected chief of police. However, the appointment or removal of a non-elected chief of police, municipal clerk, municipal attorney, any department head, or the auditor is subject to approval by the board of aldermen [R.S. 33:404(A)(3)].

The selection or dismissal of police personnel is made only upon the recommendation of the elected chief of police to the mayor and concurrence by the board of aldermen [R.S. 33:423].

Municipalities having 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 the electors [*Louisiana Constitution*, Article X, Section 14], and any municipality may establish, in accordance with law, a municipal civil service system [*Louisiana Constitution*, Article X, Section 15].

Several municipalities in Louisiana have taken advantage of these constitutional provisions to create a municipal civil service system.

With regard to fire and police personnel, Article X, Section 16 of the Constitution establishes a system of classified fire and police civil service in all municipalities having a population exceeding 13,000 which operate a regularly paid fire and municipal police department. The Legislature has created by statute fire and police civil service laws for municipalities having a population of not less than 7,000 and not more than 13,000 [R.S. 33:2531 et seq.] and for municipalities having a population of not less than 13,000 and not more than 250,000 [R.S. 33:2471 et seq.].

RETIREMENT

Each municipality may contract for the extension of retirement benefits to their employees. The Municipal Employees' Retirement System of Louisiana consists of two accounts, known as Plan A (regular plan) and Plan B (supplemental plan), and includes municipal employees, actively employed on a basis of 35 hours per week [R.S. 11:1731 et seq.].

Municipal elected officials, including mayors, council members and aldermen were included in the definition on the basis that being on call 24 hours a day met the requirement that they were “employed” at least 35 hours per week. Act Nos. 59 and 99 of the 1996 First Extraordinary Session of the Louisiana Legislature saw the enactment of R.S. 11:164 and the passage of a joint resolution proposing to amend the state constitution by adding Article X, Section 29.1, respectively.

R.S. 11:164 declared certain elected officials to be “part-time” thus eliminating them from the definition of those eligible to participate in any public retirement system. Those part-time officials include “[any member of a city council, city-parish council, or town council or any alderman...” Mayors remain eligible for participation. The constitutional amendment, which was adopted by the electorate, put this provision in the state constitution.

Both provisions had grandfather clauses which provided that any elected officials who were in office and a member of a public retirement system as of January 1, 1997, were unaffected by the new eligibility requirements.

The Municipal Police Employees' Retirement System of Louisiana consists of full-time police officers employed by a municipality, except for those municipalities which have their own retirement systems [R.S. 11:2211 et seq.].

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