

Supreme Court of Louisiana

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FROM: CLERK OF SUPREME COURT OF LOUISIANA

The Opinions handed down on the 19th day of March, 2013, are as follows:

BY CLARK, J.:

2012-C -1937 WEST MONROE FIREFIGHTERS LOCAL 1385, ET AL. v. CITY OF WEST
MONROE (Parish of Ouachita)

For the reasons stated herein, we reverse the grant of partial summary judgment in favor of Plaintiffs and grant the City's cross-motion for summary judgment, dismissing all of Plaintiffs' claims.

REVERSED; JUDGMENT RENDERED.

KNOLL, J., dissents and assigns reasons.

03/19/13

SUPREME COURT OF LOUISIANA

No. 2012-C-1937

WEST MONROE FIREFIGHTERS LOCAL 1385, ET AL.

VERSUS

CITY OF WEST MONROE

ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
SECOND CIRCUIT, PARISH OF OUACHITA

CLARK, Justice

We granted this writ application to determine whether the minimum monthly salary referenced in La.R.S. 33:1992 includes the supplemental amount paid by the municipality for purposes of calculating wage differentials for higher-ranking firefighters. We find the interplay between La.R.S. 33:1992 and R.S. 33:2002 necessitates the exclusion of the enhanced amount of \$300 from the base pay of a firefighter when calculating the pay differentials. Thus, we reverse the grant of partial summary judgment as to liability against the City of West Monroe in this suit and grant summary judgment in favor of the City of West Monroe, dismissing the plaintiffs' suit in its entirety.

FACTS AND PROCEDURAL HISTORY

Pursuant to La. R.S. 33:2002(A)(1), the state of Louisiana pays firefighters a state supplement of \$500 per month beginning after a firefighter's first year. The legislature in 2006 amended La.R.S. 33:2002(A)(3) to allow a municipality to pay first-year firefighters a supplemental monthly payment "in the amount equivalent to the state supplemental pay, or any portion thereof" and to authorize termination of such payment at the end of the first year as long as the reduction is disclosed in writing at the time the firefighter is hired. In compliance with La.R.S. 33:2002,

the City of West Monroe (“the City”) paid a city supplement in the amount of \$300 to its first-year firefighters.

In the instant litigation, there are five ranks of firefighters: firefighter, engineer/operator, fire captain, assistant fire chief, and chief. La.R.S. 33:1992(A) sets forth the minimum salaries to be paid to the differing ranks of firefighters, basing the pay differential on specified percentages above the “minimum monthly salary” of a first-year firefighter. The City did not include the \$300 supplemental payment in its computation of the “minimum monthly salary.”

On March 1, 2010, current and former firefighters for the City of West Monroe (“Plaintiffs”) filed suit against the City, alleging that the pay practices in use violated La.R.S. 33:1992. Particularly, Plaintiffs argued the base salary, or “minimum monthly salary”, which is used to compute percentage differentials for higher ranking firefighters, failed to include the city supplemental pay of \$300 per month. They contended the correct minimum monthly salary was \$1,800, reflecting the \$1,500 base salary in addition to the \$300 supplemental salary. Without the supplement, the first year firefighters’ pay would not meet the minimum wage required by federal law. Conversely, the City argued the proper minimum monthly salary was \$1,500 because the city supplement is only a temporary monthly payment given to first-year firefighters.

Plaintiffs amended their petition to include a claim under the Louisiana Wage Act pursuant to La. R.S. 23:631 for former employees to recover unpaid wages. Penalty wages and attorney fees were also sought.

On July 21, 2011, Plaintiffs filed a motion for partial summary judgment as to liability against the City. The City filed an opposition to Plaintiffs’ motion for partial summary judgment and filed a cross-motion for summary judgment as to all

the claims brought by Plaintiffs, arguing that La.R.S. 33:2002 specifically authorizes the City to calculate pay differentials in a manner that excludes the city supplemental pay.

The trial court held a hearing on the motions. It granted Plaintiffs' motion for partial summary judgment as to the claims under La.R.S. 33:1992 for current firefighters and 23:631 for former firefighters. Additionally, it awarded attorney fees in the amount of \$500. The trial court denied the City's motion for summary judgment. In support of its judgment, the trial court explained:

The wage differentials set forth in La. R.S. 33:1992 shall be calculated on the actual minimum monthly salary (or starting base pay) of a fireman, including the city supplemental pay. The court specifically finds that the defendant City may not base the minimum monthly salary of first year firefighters for purposes of La.R.S. 33:1992 on an amount that does not meet the applicable minimum wage requirements of the Fair Labor Standards Act, 29 U.S.C. § 206. The defendant City's policy of excluding the City supplemental pay from this calculation pursuant to La.R.S. 33:2002(A)(3)(a)-(c) contravenes La.R.S. 33:1992.

The court of appeal upheld the portion of the trial court's judgment that granted Plaintiff's motion for partial summary judgment, but it reversed the ruling on attorney fees and remanded the matter for purposes of determining an award of back pay and appropriate attorney fees.¹ The City filed a writ application with this court.

We granted certiorari to determine whether La.R.S. 33:1992 obligates the City to include the supplemental pay as part of the "minimum monthly salary" of first-year firefighters for purposes of calculating wage differentials for higher

¹ See *West Monroe Firefighters Local 1385, et al v. City of West Monroe*, 47, 333 (La. App. 2 Cir. 8/1/12, _ So.3d _).

ranking firefighters.²

APPLICABLE LAW

Summary judgments are reviewed *de novo* on appeal, with the reviewing court using the same criteria that govern the trial court's determination of whether summary judgment is appropriate, whether there is any genuine issue of material fact, and whether the movant is entitled to judgment as a matter of law. *Louisiana Safety Ass'n of Timbermen Self-Insurers Fund v. Louisiana Ins. Guar. Ass'n*, 2009-0023, p. 5 (La.6/26/09), 17 So.3d 350, 353. A court must grant a motion for summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to material fact, and that mover is entitled to judgment as a matter of law." La. Code Civ. P. art. 966(B); *Costello v. Hardy*, 2003-1146, p. 8 (La.1/21/04), 864 So.2d 129, 137.

DISCUSSION

As follows, La. R.S. 33:1992(A) sets forth the wage differentials for the differing ranks of firefighters and establishes that the salaries are based on the "minimum monthly salaries" of firefighters:

A. The minimum monthly salaries of firemen in municipalities having a population of twelve thousand or more and in the city of Bastrop and of all parish and fire protection district paid firemen, including salaries payable out of the avails of any special tax provided by the Constitution of Louisiana for increasing the pay of firemen, shall be in accordance with the following schedule, and such salaries shall be paid semi-monthly not later than the fifth and twentieth day of each calendar month:

(1) A fireman shall receive a minimum monthly salary of four hundred dollars per month.

(2) Engineers shall receive a minimum monthly salary of not less than

² See *West Monroe Firefighters Local 1385, et al v. City of West Monroe*, 12-1937 (La. 11/21/12), _So.3d_.

ten percent above that of a fireman.

(3) Lieutenants shall receive a minimum monthly salary of not less than fifteen percent above that of a fireman.

(4) Captains shall receive a minimum monthly salary of not less than twenty-five percent above that of a fireman.

(5) Battalion chiefs and district chiefs shall receive a minimum monthly salary of not less than forty percent above that of a fireman.

(6) Assistant chiefs and deputy chiefs shall receive a minimum monthly salary of not less than fifty percent above that of a fireman.

(7) A mechanic or assistant mechanic, or any other person doing this type of work for the fire department, shall receive a minimum monthly salary of not less than twenty-five percent above that of a fireman.

(8) A superintendent of fire alarm system, or any other person doing this type of work for the fire department, shall receive a minimum monthly salary of not less than forty percent above that of a fireman.

(9) A fire alarm operator or dispatcher, or any other person doing this type of work for the fire department, shall receive a minimum monthly salary of not less than twenty-five percent above that of a fireman.

(10) A fire inspector shall receive a minimum monthly salary of not less than twenty-five percent above that of a fireman.

At issue is whether the \$300 city supplement is to be considered part of the “minimum monthly salary” of a first-year firefighter. The City argues La.R.S. 33:2002(A)(3) specifically authorizes the exclusion of the city supplement.

La.R.S. 33:2002 provides, in pertinent part:

A. (1) In addition to the compensation now paid by any municipality, parish, fire protection district, or other political subdivision maintaining a fire department, or by the Chitimacha Tribe of Louisiana or the Coushatta Tribe of Louisiana, hereinafter referred to as "tribe", or by any nonprofit corporation contracting with any such political subdivision to provide fire protection services to every paid, *regularly employed employee* who is paid not less than three hundred dollars per month, not including supplemental pay, as distinguished from part-time employees and volunteers of such fire department, who are carried on the payroll of such fire department, and every employee as defined herein who is paid from funds of the parish or

municipality or tribe obtained through lawfully adopted bond issues, lawfully assessed taxes, or other funds available for such purpose, either directly or through a board or commission set up by law or ordinance of the parish or municipality or tribe, *shall be paid extra compensation by the state in the amount of five hundred dollars per month for each such paid employee who has completed or who hereafter completes one year of service.*

...

(3)(a) *A municipality, parish, fire protection district, or other political subdivision maintaining a fire department, or the Chitimacha Tribe of Louisiana or the Coushatta Indian Tribe of Louisiana, or any nonprofit corporation contracting with any such political subdivision to provide fire protection services may enhance the first-year salary of every paid, regularly employed employee in the amount equivalent to the state supplemental pay, or any portion thereof, that the employee shall be entitled to be paid after one year of service pursuant to this Subpart.*

(b) *Any such municipality, parish, fire protection district, or other political subdivision maintaining a fire department, or the Chitimacha Tribe of Louisiana or the Coushatta Indian Tribe of Louisiana, or nonprofit corporation contracting to provide fire protection services shall disclose, in writing, at the time the employee is hired that such enhancement shall be paid only during the first year of employment.*

(c) *Notwithstanding any other provision of law to the contrary, no municipality, parish, fire protection district, or other political subdivision maintaining a fire department, or the Chitimacha Tribe of Louisiana or the Coushatta Indian Tribe of Louisiana, or any such nonprofit corporation contracting to provide fire protection services, shall be subject to penalty for reducing the salary of any employee whose salary has been enhanced pursuant to this Paragraph for one year by an amount not exceeding the amount of such enhancement. Any such reduction shall not be void as provided in R.S. 33:2218.5.*

(Emphasis added).

La.R.S. 33:2002(A)(3) provides for the enhancement of the salary of first-year firefighters in an amount equivalent to or less than the state supplemental pay of \$500 that begins after the first year of service. Effective July 1, 2006, if a municipality discloses in writing that such payment will only be paid during the first year of employment, the municipality is protected from penalty for reducing

the salary of a firefighter by an amount not exceeding the amount of the enhancement. The City argues the lower courts' inclusion of the \$300 in the definition of "minimum monthly salary" renders La.R.S. 33:2002(A)(3) meaningless because the City could never effectively reduce the temporary city supplemental pay. In effect, the \$300 will always be owed to higher ranking firefighters in addition to the percentage above the \$300 amount.

Further, the City contends that because the city supplement is only paid for a twelve-month period, it is temporary by nature and cannot be considered part of the "minimum monthly salary" that acts as a base from which all percentage increases are set for years to come.

Plaintiffs aver the city supplement should be included in the calculable base pay for pay differentials because without the supplement, the first-year firefighters' salaries do not meet the minimum wage requirements of the Fair Labor Standards Act. Citing to *Johnson v. Marrero-Estelle Volunteer Fire Company No. 1*, 04-2124 (La.04/12/05), 898 So.2d 351, 354 which reiterated language used in *New Orleans Firefighters Assoc. v. Civil Service Commission of City of New Orleans*, 422 So.2d 402, 412 (La. 1982), they argue the city's pay practice thwarts the legislative purpose of La. R.S. 33:1992 insofar as the goal of the statutory scheme is to eradicate poor working conditions for fire department employees:

The provisions of La.R.S. 33:1991 *et seq.* are "remedial and humanitarian in purpose and must not be interpreted narrowly." We described the "motive and purpose" behind these laws as "plainly to make effective [the legislature's] conception of public policy that substandard labor conditions in city, parish and other local fire departments should be eliminated as injurious to the safety and welfare of the public as well as detrimental to the health, efficiency and morale of firefighters."

Plaintiffs contend that the City's use of a sum for base pay that does not comply

with the federal minimum wage standards contravenes the purpose of the statute.

In response, the City explains that a lesser amount than \$300 would satisfy the City's obligation to comply with the Fair Labor Standards Act; that federal law is in no way being violated and that plaintiffs did not bring a claim alleging violations of federal law; that, as evidenced by La.R.S. 33:2002, the legislature did not intend for the base rate to be set at the federal minimum wage; and that the federal minimum wage law is irrelevant to the interpretation and application of La.R.S. 33:1992. For the reasons that follow, we agree with the City.

Under the Fair Labor Standards Act, wages include all remuneration paid to an employee. 29 U.S.C. § 207. It is undisputed that all remuneration given to first-year firefighters, whether it be base pay, supplemental pay, or incentive pay, exceeds the federal minimum wage requirement. Thus, there is no cause of action under federal law.

Nothing in the language of La.R.S. 33:1992 requires the "minimum monthly salary" to independently meet the federal minimum wage laws. If the legislature had intended for the base pay of La.R.S. 33:1992 to be governed by the mandates of the Fair Labor Standards Act, it could have directly referenced it therein. "Legislative language will be interpreted on the assumption that the Legislature was aware of existing statutes, rules of construction, and judicial decisions interpreting those statutes." *Fontenot v. Reddell Vidrine Water Dist.*, 02-0439, pp. 13-14 (La.1/14/03), 836 So.2d 14, 24. It is impossible to say the legislature was not cognizant of the Fair Labor Standards Act, when it references it separately within the same statutory scheme. (See La.R.S. 33:1994(A), which provides: "[o]vertime compensation for firefighters covered by this Subpart . . . shall be governed by the provisions of the federal Fair Labor Standards Act, as

implemented in 29 CFR Part 553.”) Thus, if the legislature intended for the federal minimum wage to be incorporated into the definition of “minimum monthly salary” in La.R.S. 33:1992, it could and would have done so expressly.

Additionally, we find that the lower courts’ rulings interpret La.R.S. 33:1992 in a manner that fails to give effect to La.R.S. 33:2002. In statutory interpretation, there is a well-settled presumption that “every word, sentence or provision in the statute was intended to serve some useful purpose, that some effect is to be given to each such provision, and that no unnecessary words or provisions were used.” *ABL Mgmt., Inc. v. Bd. of Supervisors of Southern Univ.*, 00-0798, p. 6 (La.11/28/00), 773 So.2d 131, 135. Thus, our courts must “give effect to all parts of a statute and construe no sentence, clause or word as meaningless.” *Moss v. State*, 05-1963, p. 15 (La.4/4/06), 925 So.2d 1185, 1196. It is further presumed that the legislature did not insert “idle, meaningless or superfluous language in the statute or that it intended for any part or provision of the statute to be meaningless, redundant or useless.” *ABL Mgmt., Inc.*, 00-798, p. 6, 773 So.2d at 135.

Acknowledging that state supplemental pay is not provided to beginning firefighters, the legislature in La. R.S. 33:2002 allows a municipality to provide a supplemental enhancement to firefighters in their first year of employment and to stop payment of that supplemental pay at the end of the year if the municipality advises the firefighter in writing at the time of hiring that the supplemental amount will be reduced from their salary. Subsection (c) specifically states that “no municipality . . . shall be subject to penalty” for the described reduction. Requiring the City to include the supplemental pay in the base pay of entry level firefighters and thereby cause it to serve as the amount on which all higher-

ranking firefighters' salaries are based effectively prevents the City from doing what La.R.S. 33:2002 specifically authorizes it to do, *i.e.*, stop payment of the supplemental pay after the employee's first year. Instead, the City would be required to continue paying the supplement to higher ranking firefighters in addition to the applicable percentage increase. This practice renders the statute meaningless and does not further the legislative intent of increasing the pay of first-year firefighters. Contrarily, it acts as a disincentive against the City giving more money to a first-year firefighter beyond that which is required under federal law because a limited municipal budget cannot support a temporary pay increase that is effectively permanent.

Accordingly, we find under the plain language of La.R.S. 33:1992 and La.R.S. 33:2002, the city supplemental pay of \$300 per month is not included in the calculation of a first-year firefighters' "minimum monthly salary" for purposes of determining wage differentials for higher-ranking firefighters. Federal minimum wage law is unrelated to and irrelevant in this analysis.

DECREE

For the reasons stated herein, we reverse the grant of partial summary judgment in favor of Plaintiffs and grant the City's cross-motion for summary judgment, dismissing all of Plaintiffs' claims.

REVERSED; JUDGMENT RENDERED.

03/19/13

SUPREME COURT OF LOUISIANA

No. 2012-C-1937

WEST MONROE FIREFIGHTERS LOCAL 1385, ET AL.

VERSUS

CITY OF WEST MONROE

**ON WRIT OF CERTIORARI TO THE COURT OF APPEAL,
SECOND CIRCUIT, PARISH OF OUACHITA**

Knoll, J., dissenting.

With all due respect, I dissent. The majority interprets La. Rev. Stat. § 33:1992 to exclude the \$300 city supplement from first-year firefighters' "minimum monthly salary" for purposes of calculating the wage differentials of higher-ranking firefighters. In my view, such a narrow interpretation subverts the "remedial and humanitarian . . . purpose" of La. Rev. Stat § 33:1991, *et seq. New Orleans Firefighters Ass'n v. Civil Serv. Comm'n of City of New Orleans*, 422 So. 2d 402, 412 (La. 1982). I further dissent because I do not believe reading La. Rev. § 33:1992 to include the \$300 city supplement as part of a firefighter's "minimum monthly salary" renders La. Rev. Stat. § 33:2002(A)(3)(c) meaningless.

First, the majority, in my view, narrowly interprets § 33:1992, thereby undermining the Legislature's intent in enacting minimum wage and overtime laws for Louisiana firefighters. Such an interpretation overlooks the primary purpose of statutory construction, which is to ascertain and enforce the will of the Legislature. *Pumphrey v. City of New Orleans*, 05-979, p. 10 (La. 4/4/06), 925 So.2d 1202, 1209; *Sultana Corp. v. Jewelers Mut. Ins. Co.*, 03-0360, p. 4 (La. 12/3/03), 860 So. 2d 1112, 1115. A statute must be "applied and interpreted in a manner that is

logical and consistent with the presumed fair purpose and intention the Legislature had in enacting it.” *Sultana Corp.*, 03-0360 at p. 4, 860 So. 2d at 1116. Although statutory interpretation begins with the language of the statute itself, *Oubre v. Louisiana Citizens Fair Plan*, 11-0097, p. 11 (La. 12/16/11), 79 So. 3d 987, 997, a statute’s language must not be construed so narrowly as to defeat or undermine the clear intent of the Legislature. *See State v. Shaw*, 06–2467, p. 15 (La. 11/27/07), 969 So. 2d 1233, 1242 (“[A]n interpretation should be avoided which would operate to defeat the object and purpose of the statute.”).

This Court has previously ascertained and cogently articulated the Legislature’s intent in enacting minimum wage and overtime laws for Louisiana firefighters:

. . . [T]here is no difference in principle between our statutes [La. Rev. Stat. § 33:1991 *et seq.*] and the federal minimum wage and working condition laws. The motive and purpose of the legislature were plainly to make effective its conception of public policy that substandard labor conditions in city, parish and other local fire departments should be eliminated as being injurious to the safety and welfare of the public as well as detrimental to the health, efficiency and morale of firefighters . . . [La. Rev. Stat. § 33:1991 *et seq.*] are remedial and humanitarian in purpose and ***must not be interpreted narrowly***.

New Orleans Firefighters Ass’n, 422 So. 2d at 412 (emphasis added); *see also Johnson v. Marrero-Estell Volunteer Fire Co., No. 1*, 04-2124, p. 2 (La. 4/12/05), 898 So. 2d 351, 354 (quoting *New Orleans Firefighters Ass’n*, 422 So. 2d at 412). In order to effectuate the “the remedial and humanitarian purpose of the statute[],” the wages of higher-ranking firefighters should be calculated based on a firefighter’s “minimum monthly salary,” including the \$300 city supplement. *New Orleans Firefighters Ass’n*, 422 So. 2d at 412.

A fair interpretation of the phrase “minimum monthly salary” supports the conclusion that the \$300 city supplement should be included in the base figure for

calculating the wages of higher-ranking firefighters. Section 33:1992 mandates that higher-ranking firefighters' salaries must be a specified percentage above the "minimum monthly salary" of a beginning firefighter. La. Rev. Stat. § 33:1992(A)(1)–(10). A basic tenant of statutory construction is that "words of a law must be given their generally prevailing meaning." La. Civ. Code art. 11. Several appellate courts have interpreted the generally prevailing meaning of the phrase "minimum monthly salary" in § 33:1992. For instance, the Second Circuit in *Alamond v. City of Shreveport*, 39,514, p. 8 (La. App. 2 Cir. 4/6/05), 900 So. 2d 277, 281, defined the phrase as "regular compensation paid monthly over an extended period of time," and the First Circuit in *Hemphill v. City of Bogalusa*, 417 So. 2d 462, 465 (La. App. 1 Cir. 1982), stated, "the minimum salary **actually paid** is the correct base" for calculating the salaries of higher-ranking firefighters. (emphasis in original). The City, however, sets the base for calculating the salaries of higher-ranking firefighters at \$1,500, deliberately understating the "minimum monthly salary" of a beginning firefighter. The City's beginning firefighters, though, are never "actually paid" \$1,500 "monthly over an extended period of time." *Alamond*, 39,514 at p. 8, 900 So. 2d at 281; *Hemphill*, 417 So. 2d at 465. Instead, a beginning firefighter in West Monroe is actually paid \$1,800 a month—\$1,500 base salary plus \$300 city supplement—during his first year of service and thereafter receives \$2,000 a month—\$1,500 base salary plus \$500 state supplement. Thus, an entry-level firefighter is never actually paid an amount less than \$1,800 a month. The City's devaluation of the beginning firefighters' monthly salaries in turn suppresses the salaries of higher-ranking firefighters under § 33:1992.

Ultimately, the majority's interpretation of § 33:1992 allows the City to craft a fiction in which the \$300 city supplement is included for purposes of meeting federal minimum wage requirements under the Fair Labor Standards Act, 29

U.S.C. § 206, but magically disappears for purposes of § 33:1992. In this fiction, the City acknowledges the supplement when it is financially convenient but then disregards the supplement when it is a financial burden. Allowing the City to have it both ways creates, in my view, an absurd result. Namely, by indulging this fiction, the majority permits the City to suppress the wages of high-ranking firefighters by calculating their salaries using an amount that is always less than the actual compensation paid to a beginning firefighter over an extended period of time.

Finally, I dissent because interpreting § 33:1992 to include the \$300 city supplement as part of a beginning firefighter’s “minimum monthly salary” does not render § 33:2002(A)(3)(c) superfluous. Admittedly, § 33:2002(A)(3)(c) permits a municipality—after disclosing the temporary nature of the city supplement in writing—to reduce the city supplement after a firefighter’s first year of service without being “subject to penalty.” However, after reading § 33:2002 *in pari materia* with La. Rev. Stat. § 33:2005 and reviewing the legislative history behind the 2006 amendments to § 33:2002, it is clear the Legislature meant one thing by word “penalty” in § 33:2002(A)(3)(c). Specifically, the word “penalty” in § 33:2002(A)(3)(c) is shorthand for “lawsuit under § 33:2005.”

In my view, requiring the City to include the \$300 supplement in the base figure for calculating the wages of higher-ranking firefighters does not fall within the purview of the Legislature’s targeted use of the word “penalty” in § 33:2002(A)(3)(c). As an initial matter, §§ 33:2002(A)(3)(a)-(c) must be read *in pari materia* with both § 33:1992 and § 33:2005. *See* La. Civ. Code art. 13. The majority, however, ignores § 33:2005, which provides in pertinent part:

Any reduction of the salary of an employee covered by this Subpart [*i.e.*, a firefighter] . . . whether by the governing authority or by any pay plan under the provisions of the civil service law, or otherwise, shall be void where it is made

solely by reason of the additional compensation by the state, provided in this Subpart [*i.e.*, the \$500 state supplement].

Before 2006, if a municipality reduced a firefighter's city supplement after the firefighter became eligible to receive the monthly state supplement, then that firefighter could sue the municipality under § 33:2005 to have his city supplement reinstated. *See Aguillard v. City of Lake Charles*, 07-189, p. 4 (La. App. 3 Cir. 9/26/07), 966 So. 2d 722, 726, *writ denied*, 07-2107 (La. 3/7/08), 977 So. 2d 907. In 2006, the Legislature sought to avoid this result under § 33:2005 by amending § 33:2002. Acts 2006, No. 789, § 1, eff. July 1, 2006. Specifically, the Legislature added § 33:2002(A)(3)(c), which authorizes a municipality to reduce a firefighter's city supplement without "penalty" after that firefighter begins receiving the monthly state supplement. *Id.* When introducing House Bill 1168, which would become §§ 33:2002(A)(3)(a)-(c), Representative Jack Smith repeatedly emphasized the Bill was designed to prevent municipalities from being sued for reducing city supplemental pay after a firefighter began receiving state supplemental pay. *See Meeting of Committee on Municipal, Parochial, and Cultural Affairs of the Louisiana House of Representatives (5/3/2006)*, H.B. 1168, *available at* http://house.louisiana.gov/H_Video/2006/May2006/htm. This legislative history, read in conjunction with § 33:2005, reveals the term "penalty" in § 33:2002(A)(3)(c) means "lawsuit under § 33:2005." Including the \$300 city supplement in the base figure for calculating the minimum salaries of higher-ranking firefighters cannot trigger a "lawsuit under § 33:2005," and it does not, therefore, subject municipalities to a "penalty" under § 33:2002(A)(3)(c).

In sum, reading § 33:1992 to include the \$300 city supplement does not render § 33:2002(A)(3)(c) nugatory. Rather, a municipality can still, without being sued under § 33:2005, reduce a first-year firefighter's city supplement after that firefighter becomes eligible for the state supplement. This was the Legislature's

intent in enacting §33:2002(A)(3)(c), and interpreting § 33:1992 to include the \$300 city supplement does nothing to abrogate this intent.

For these reasons, I would affirm the rulings of the lower courts, which granted summary judgment in favor of the West Monroe firefighters.