

Lawrason Act

FAQ

R.S. [33:321-463](#)

Overview:

The following is a summary of the general principles and guidelines concerning Louisiana's Lawrason Act. This document is presented in a frequently asked questions (FAQ) format. While fairly detailed, it is important to remember that every situation is unique and as a result each situation deserves careful individual review.

There are numerous links within the document directing your attention to areas within the document and to other related documents posted on the Louisiana Legislative Auditor's website and on external websites to facilitate your use of this document. For example, under the index section, you may go directly to any area of the FAQ by clicking the question you wish to view. Within the FAQ, there are several links to direct you to other areas of the FAQ and to relevant external documents. If you click on the individual question number, a link will take you back up to the index to allow you to select another question to view.

Index

- 1.** What is the Lawrason Act and where is it found?
- 2.** What is the purpose of the Lawrason Act?
- 3.** To whom does the Lawrason Act apply?
- 4.** Can a municipality choose to be governed by the Lawrason Act?
- 5.** What are the different classifications of municipalities and can they change?
- 6.** How are the classifications changed?
- 7.** What nomenclature is used in referring to the different classifications of municipalities?
- 8.** What are the powers of the municipalities under Lawrason?
- 9.** How are the municipality's powers exercised?
- 10.** Who are the municipal officers exercising this power?
- 11.** What are the qualifications to be Mayor?
- 12.** What are the powers, duties and responsibilities of the Mayor?
- 13.** What are the regulations involving Aldermen?
- 14.** What are the qualifications to be Alderman?
- 15.** What are the powers, duties and responsibilities of the Board of Alderman or council?
- 16.** What if there is a vacancy on the Board?
- 17.** May an Alderman hold two positions in the municipality? (Dual Office-holding)
- 18.** What are the qualifications of the Chief of Police or Marshal?
- 19.** What are powers, duties and responsibilities of the Chief of Police, or Marshal?
- 20.** What are the duties of the Clerk?
- 21.** What are the duties and responsibilities of the Tax Collector?
- 22.** What are the duties of the Treasurer?
- 23.** What are the duties of the Street Commissioner?

- 24.** Can the Mayor hire an attorney for the municipality?
- 25.** What officials must the Mayor appoint?
- 26.** What other rules are applicable to these appointed officials?
- 27.** What are the various rules regarding Board Meetings?
- 28.** What are the rules regarding ordinances and resolutions?
- 29.** What are the rules and requirements for a Mayor's Court?
- 30.** How are Ad Valorem Taxes handled by the Lawrason Act?
- 31.** What about Expenditures and Warrants?
- 32.** Are municipalities required to file annual audits?
- 33.** What about elections?
- 34.** Are there other summaries of the Lawrason Act available?

Common Lawrason Act Questions to the LLA

- 35.** What is the police chief's authority for establishing ticketing quotas?
- 36.** May the police chief keep a separate account for donations and auxiliary purposes?
- 37.** What other powers and duties does the elected Chief of Police have?
- 38.** What is the distinction between an elected Chief of Police and an appointed Chief of Police?
- 39.** What Authority does the Board of Alderman have in directing the city employees of a Lawrason Act municipality?
- 40.** How and when are board meetings held?
- 41.** What may be tried in a mayor's court?
- 42.** Who has the authority to supervise and direct the day-to-day operation of municipal departments and agencies?
- 43.** May an elected Chief of Police in a Lawrason Act Municipality accrue annual leave?
- 44.** Where are the local provisions for specific municipalities listed under Lawrason?
- 45.** In addition to the requirements of state ethics law (R.S. 41:1101 *et seq.*), are there any ethics provisions for local government entities?

Q.1. What is the Lawrason Act, and where is it found? [R.S. 33:321](#) – [33:463](#)

A.1. Louisiana Revised Statutes [33:321](#)- [463](#), commonly known as the Lawrason Act, is the body of law governing the operation of the incorporated municipalities in this state.

- The Act, enacted in 1898, set forth a general legislative charter for all municipalities created after its effective date, as well as for those created prior to its effective date, which chose to accept its provisions;
- The intent of this law is to provide a uniform type of government for all municipalities in Louisiana; and
- This fundamental municipal incorporation law currently governs some 248 villages, towns, and cities.

Q.2. What is the purpose of the Lawrason Act?

A.2. The Lawrason Act allows the adoption of the Mayor-Board of Alderman form of government. Lawrason determines:

- Whether a municipality is considered a city, town or village;
- The qualifications, duties, powers, and selection of officers by either election or appointment;
- The functions of each officer:
 - ▣ [mayor](#)
 - ▣ [board of aldermen](#)
 - ▣ [clerk](#)
 - ▣ [treasurer](#)
 - ▣ [chief of police, marshal](#)
 - ▣ [mayor's court](#)
- The levying and collection of taxes; and
- The expenditure of funds.

Q.3. To whom does the Lawrason Act apply? [R.S. 33:321](#)

A.3. Louisiana's Lawrason Act applies to all municipalities created after July 29, 1898, **except:**

- Municipalities governed by a special legislative charter;

- A home rule charter or plan of government adopted pursuant to Article VI, of the Constitution of Louisiana; or
- **Act 39 of the 2010 Regular Session repealed the provision for a commission plan or commission-city manager plan of municipal government.**
 - ◇ The Lawrason Act statutes do not apply to municipalities operating under a special legislative charter and the Act's provisions do not apply where the special charter is silent on a particular matter. **AG (Attorney General) Op., Sept. 25, 1973**

The majority of municipalities in Louisiana are chartered under the Lawrason Act. As the law provides today, a municipality created after July 29, 1898, is governed by the Lawrason Act, unless it is eligible to exercise an option to adopt one of the other forms of government provided by statute or special legislative charter.

Local governments operating and governed by the Lawrason Act are also subject to the Louisiana Local Government Budget Act (Budget Act) as set forth in [LSA-R.S. 39:1301-1315](#).

Q.4. Can a municipality choose to be governed by the Lawrason Act? [R.S. 33:322](#)

A.4. The legislative body of a municipality not governed by the Lawrason Act may:

- By majority vote, call an election;
- A majority of the legal votes cast are necessary to adopt this form of government;
- If a majority of the votes cast are against adoption, the legislative body may not call another election on the question for at least 12 months after the election; and
- The legislature may enact law providing that a legislative charter municipality shall be governed by the Act.

Q.5. What are the different classifications of municipalities and can they change?

[R.S. 33:341](#)

A.5. Municipalities are either cities, towns, or villages. These classifications can change depending on population changes.

- Those having 5,000 inhabitants or more are cities;
- Less than 5,000 but more than 1,000 are towns; and

- 1,000 or fewer inhabitants are villages.

Q.6. How are the classifications changed?

[R.S. 33:342](#)

A.6. Whenever a census taken by resolution or a certified report from the federal Census Bureau shows that its population has increased or decreased so as to take the municipality out of its present class, the board:

- By resolution requests the governor to change the classification;
 - The results of any census taken by resolution must be certified by the person authorized to take the census.
- Act 260 of the 2011 Regular Session, effective 8/15/11, amended R.S. 33:342 adding a provision which states that a municipality may elect not to change the classification of the municipality when the census shows that the population has increased by fewer than two hundred (200) persons since the last decennial census, but such increase would change the municipality's classification from village to town. If the governing authority, by resolution, elects to retain its classification and not change the classification as otherwise required, the mayor shall transmit a copy of the resolution to the governor and to the secretary of state for recordation. Laws applicable to municipalities based upon their population shall be applicable to a municipality that elects not to change its classification as authorized in this Paragraph based upon its population and not its classification.
- The Mayor transmits the resolution to the Governor;
- The Governor investigates the facts but he is not bound by the census submitted;
- If the Governor believes the findings are inaccurate, he may ascertain the facts in any manner he deems appropriate;
- If the Governor finds that the municipality is wrongly classified, he issues a proclamation correctly classifying the municipality, and the proclamation is transmitted to the Mayor;
- Upon receipt of the proclamation, an ordinance is to be adopted changing the name of the municipality to reflect its new classification;
- A copy of the proclamation and the ordinance must be transmitted to the Secretary of State for recordation; and

- The courts shall then take judicial notice of the class to which each municipality belongs.

Q.7. What nomenclature is used in referring to the governing authorities of different classifications of municipalities?

[R.S. 33:343](#)

A.7. The governing authority of any municipality governed by the Lawrason Act may, by duly adopted resolution, elect to be known and referred to as:

- A village, town, or city council as appropriate for a municipality of its size or, if the municipality elects to retain its classification as a village as authorized in R.S. 33:342(A)(2), as appropriate for its classification rather than its size. [Added by **Act 260 of the 2011 Regular Session**, effective 8/15/11.]
 - If the governing authority elects to be known as a village, town or city council, each individual member of such council shall thereafter be known and referred to as a council member;
 - The municipal governing authority may make other conforming changes in naming conventions, but no such change alters the applicability of state law to the municipality, its governing authority, or its members; and
 - The governing authority shall then submit a copy of the adopted resolution to the office of the secretary of state for recordation.

Q.8. What are the powers of the municipalities under Lawrason?

[R.S. 33:361](#)

A.8. Except as limited by the Lawrason Act, a municipality is vested with:

- All powers, rights, privileges, immunities, authorities, and duties in accordance with all constitutional and statutory provisions;
- A municipality may exercise any power and perform any function necessary, requisite, or proper for the management of its affairs not denied by law; and
- The board may levy and collect taxes, incur debt, and issue bonds and other evidences of indebtedness as authorized by law.

As a legal fiction of the state, the state can take away or give additional powers to

municipalities. Municipalities have no sovereignty akin to states when dealing with the Federal Government.

◇ AG Op. No. 77-1243 held that the principles of sovereignty dictate that any municipal ordinance which conflicts with a state law is invalid. Thus a municipal ordinance may neither define conduct that is punishable as a felony under state law, nor may it attempt to preempt state law. See also [AG Op. No. 09-0182](#).

◇ Municipal corporations are creatures of the state, established by the legislature to administer local affairs of government, and their powers and limits of territory they are to govern are matters entirely within province of legislature. *Pyle v. City of Shreveport*, 1949, 215 La. 257, 40 So.2d 235; *Edwards v. Town of Ponchatoula*, 1948, 213 La. 116, 34 So.2d 394.

Q.9. How are the municipality's powers exercised?

[R.S. 33:362](#)

A.9. The legislative powers are vested in and exercised by the Board of Aldermen.

The Board may:

- Enact ordinances and enforce the same by fine not to exceed \$500 dollars or imprisonment not exceeding 60 days, or both;
- Provide by ordinance for assessing against the abutting property the cost of cutting, destroying, or removing noxious weeds, grass, or other deleterious, unhealthy, or noxious growths or accumulations on any sidewalk; assess on the owner of such lot or place or area the cost of cutting, destroying, or removing noxious weeds, grass or other deleterious, unhealthy, or noxious growths or accumulations within the corporate limits; and on the owner of any lot or place or area within the corporate limits the cost of cutting, destroying or removing noxious weeds, grass, or other deleterious, unhealthy, or noxious growth or accumulation on the lot or place or area; and provide for the filing of notice of such cost which shall constitute a privilege upon the property and shall be prior in rank to mortgages, vendor's privileges, and all other privileges except tax privileges;
- Seek reimbursement from a former municipal employee on whose behalf the municipality paid licensure fees for a commercial driver's license when such employee is employed for a period of six months or less from the date upon which the municipality paid such licensure fee on behalf of the employee. Reimbursement is limited to the amount of the licensure fee paid by the municipality. The former employee is liable to the municipality for an amount equal to the amount of the licensure fee paid by the municipality;

- Subject to law and applicable civil service rules and regulations, the board shall, by ordinance, provide policies and procedures regulating the employment of municipal employees including the hiring and firing of such employees;
- The Mayor is the chief executive officer; and
- Any department, other than the police department with an elected chief of police, must be created, abolished, merged, or consolidated by the board, upon written recommendation of the mayor.

◇ The legislative powers of the board of alderman of a Lawrason Act Municipality include control over the municipal fisc and their express or implicit authorization is required for all public expenditures. **AG Op. No. 94-520.**

◇ The board of aldermen shall by ordinance fix the compensation of the mayor, aldermen, clerk, chief of police, and all other municipal officers. The board may by ordinance increase or decrease their compensation and the compensation of any non-elected municipal officer and may increase the compensation of other elected officials. The board shall not reduce the compensation of any elected official during the term for which he was elected La.R.S. [33:404.1](#). See also [AG Op. No. 09-0187](#)

◇ No expenditure of public funds may be made without an appropriation from the board of aldermen. The mayor may not bind the municipality contractually or incur debt on behalf of the municipality without the concurrence of the board of aldermen.

Q.10. Who are the municipal officers exercising this power? [R.S. 33:381](#)

A.10. The municipal officers of a Lawrason Act municipality are:

- Mayor;
- Aldermen;
- Chief of police;
- Tax collector; and
- Clerk.

Q.11. What are the qualifications to be Mayor? [R.S. 33:384](#)

A.11. The mayor is elected at large and he must be: [R.S. 33:381\(B\)](#)

- An elector of the municipality who;
- At the time of qualification as a candidate; and
- Has been domiciled and actually resided for at least the immediately preceding year in the municipality.

Q.12. What are the powers, duties, and responsibilities of the Mayor? R.S. 33:404

A.12. The mayor has the following powers, duties, and responsibilities:

- To supervise and direct the administration and operation of all departments, offices, and agencies, other than a police department with an elected chief of police, in conformity with ordinances and law; however, no ordinance may limit the authority granted to the mayor by this provision. All administrative staff are subordinate to the mayor;

◇ Act 282 of the 2011 Regular Session, effective 6/28/11, amended R.S. 33:423 to provide authority to the elected chief of police related to disciplinary action on police personnel. With an appointed chief of police, the mayor has the authority to hire, fire or discipline police employees (La. R.S. 33:404).

AG Op. No. 11-0084 – a mayor is required to obtain approval of the board of aldermen before the appointment or removal of a department head occurs and a mayor can only enter into a contract with a third party provider upon approval of the board of aldermen.

- To delegate the performance of administrative duties to such municipal officers or employees as he deems necessary and advisable;
- Subject to applicable state law, ordinances, and civil service rules and regulations, to appoint and remove employees, other than the employees of a police department with an elected chief of police. However, appointment or removal of a nonelected chief of police, the clerk, the attorney, or any department head is subject to board approval, except that in the case of a tie vote, the mayor's recommendation prevails.

◇ Lawrason Act permitted city's new mayor to appoint a new city clerk and tax collector upon expiration of the old clerk and tax collector's appointment. *Carron v. City of Opelousas*, App. 3 Cir.2007, 970 So.2d 1205, 2007-506 (La.App. 3 Cir. 11/21/07), *rehearing denied*.

◇ The board does not have authority to remove nonelected chief of police without mayor's concurrence or recommendation. *In re Dismissal of Jordan*, App 2 Cir. 1994, 631 So. 2d 57. Mayor does not have authority to abolish civil service position. *Walker v. City of*

Opelousas, App. 3 Cir. 2002, 817 So. 2d 1258. The mayor is the proper person to determine if non-officer employees are to be given raises. **AG Op. No. 97-492.**

- To sign all contracts on behalf of the municipality;

The mayor has statutory authority to sign all contracts contingent on the monies being appropriated by the Council. Once monies are appropriated (i.e. in the budget under the Local Government Budget Act), the Mayor does not have to go back to the Council for authority to sign the contract document.

AG Op. No. 10-0245 – The mayor must sign a contract extension after it is approved by the city council.

- **R.S. 39:1311 (LGBA) states in pertinent part:**

C. The adopted budget and any duly authorized amendments required by this Section shall constitute the authority of the chief executive or administrative officers of the political subdivision to incur liabilities and authorize expenditures from the respective budgeted funds during the fiscal year.

D. Nothing in this Chapter shall prevent the making of contracts for governmental services or for the capital outlay for a period exceeding one year if such contracts are allowed otherwise by law. Any contracts so made shall be executory only for the amounts agreed to be paid for such services to be rendered in succeeding years.

Paragraph C above states that the adopted budget SHALL constitute the authority for the mayor to incur liabilities and authorize expenditures. Paragraph D states that nothing in the LGBA SHALL prevent the making of contracts and also limits the expenditure to the amounts agreed to be paid for the services. Thus, under the LGBA, if the council has approved the budget that the mayor submitted, and the expenditure under the contract is authorized in the budget, the mayor has the authority under the Lawrason Act to sign the contract.

- Furthermore, R.S. 33:404(A)(4) states that the mayor has the authority to sign all contracts on behalf of the municipality.
- Finally, **AG Op. No. 10-0268** reflects the above cited statutory authority of the mayor. The mayor has the authority to incur liabilities and authorize expenditures within the amount allocated in the budget. The mayor has authority to expend public funds to promote and develop an industry which may include a music event, if the funding does not exceed the amount allocated by the Board of Aldermen in the budget.

- ◇ The Mayor of a Lawrason Act municipality is the sole authority to sign and execute contracts and agreements approved by the Board of Alderman. **AG Op. No. 09-0181.**
- ◇ The Mayor may not enter into a contract which obligates the municipality to pay without the approval of the board. **AG Op. No. 09-0132**
- To prepare and submit an annual operations budget and a capital improvements budget for the municipality to the board in accordance with the Local Government Budget Act (R.S. [39:1301](#), *et seq.*) and any other supplementary laws or ordinances. Pursuant to Section [406](#) of the **Lawrason Act** the budget submitted by the Mayor to the Council is approved by the Council in the form of budget ordinance and returned to the Mayor for his approval or disapproval;
- To represent the municipality on all occasions required by state law or ordinance;
- To be the keeper of the municipal seal and affix it as required by law;
- To sign warrants drawn on the treasury for money, to require that the clerk attest to such warrants, to affix the municipal seal thereto, and to keep an accurate and complete record of all such warrants; and
- To have any other power or perform any other duty as may be necessary or proper for the administration of municipal affairs not denied by law.

AG Op. No. 11-0084 (6/24/11) A mayor has the authority to appoint and remove city employees without necessitating input or approval from the city council, except as it relates to policies and procedures they may develop regulating the employment of municipal employees, including the hiring and firing of such employees. As for the appointment or removal of department heads, a mayor's recommendation is subject to approval by the city council, except in the case of a tie vote where the mayor's recommendation prevails. On the other hand, the city council has the authority to create, abolish, merge or consolidate any departments of the city, but only upon written recommendation by the mayor.

- ◇ The mayor and board may not terminate a police officer without the recommendation of the chief. *Thibodeaux v. Hernandez*, 702 So.2d 1157 (La.App.3 Cir. 1997).
- ◇ The board is not required to adopt the chief's personnel recommendations. *Grant v. Grace*, 870 So.2d 1011 (La. 2004); **AG Op. Nos. 04-0141 and 04-0271.**
- ◇ The chief may not hire or appoint an assistant chief of police without the approval of the board and the mayor. While the mayor and board are not bound to accept the chief's first recommendation, they may not hire outside that recommendation. The

assistant only performs those duties assigned by the chief, not the mayor. **AG Op. Nos. 01-07, 02-77A, and 05-0320**

Q.13. What are the regulations involving Aldermen?

R.S. 33:382

A.13. The number of aldermen in a **city** must not be:

- Less than five nor more than nine;
- The number of aldermen in a **town** is five; and
- The number of aldermen in a **village** is three:
 - If a city has eight or more aldermen, two must be elected from each district and the remainder elected at large;
 - If a city has seven or fewer aldermen, an equal number of aldermen are elected from each district and the remainder elected at large;
 - If a town is divided into districts, one alderman is elected from each district and one elected at large;
 - Aldermen in villages are elected at large;
 - A board not divided into districts may, by ordinance, divide the municipality into districts. Each district must contain as equal population as possible and the territory in each district shall be contiguous;
 - The board may, by ordinance, divide the board into divisions, such that aldermen are elected at large, but each alderman is elected to a specific division for the sole purpose of nomination and election and which is designated alphabetically. Of the initial aldermen to be elected under this provision, the alderman senior in point of continuous service presides over Division "A", and the other aldermen preside over the other designated divisions according to their respective periods of continuous service;
 - If two or more aldermen in a municipality have served continuously for the same length of time, the alderman senior in age presides over the division first in alphabetical order;
 - The successor to any alderman presides over the same division as his predecessor. A candidate for such nomination and election shall, at the time of filing his declaration as a candidate, designate

the division for which he is a candidate. The electors shall elect one alderman from among the candidates for each division;

- The board may establish, by ordinance, that aldermen are to be elected in a manner different from that provided in this Section. The ordinance may provide that all aldermen be elected at large, that a number of aldermen be elected at large and a number from districts in proportion other than that specified in this Section, or that only some of the board members be elected to particular divisions. However, no ordinance changing the manner in which aldermen are elected shall be adopted within one year of the date of an election for aldermen;
- Once the boundaries of districts or the divisions have been established by ordinance, they shall not be changed for two years from the effective date of the ordinance. The boundaries once established may only be changed by a vote of two-thirds of all board members. No change in the boundary of a district or the division shall be made, however, within one year of the date of an election for aldermen. The board shall reconsider the boundaries of the districts within six months of the official publication of the federal decennial census by the Census Bureau and within six months of any annexation. The purpose of any such reconsideration shall be to determine if the boundaries of the districts continue to divide the municipality into districts of nearly equal population;
- If upon reconsideration, a board determines that unequal apportionment of the municipal population exists, the board shall, by ordinance, change the boundaries to reflect as nearly as possible an equal apportionment of the population; and
- The boundaries of any election district for a new redistricting or apportionment plan from which members of the governing authority are elected shall contain, to the extent practicable, whole election precincts established by the parish governing authority.

Q.14. What are the qualifications to be Alderman?

R.S. 33:385

A.14. Qualifications of aldermen are the same as for the mayor, and in addition, those elected from wards must be residents of their respective wards.

- **AG Op. No. 10-0213 opines that a vacancy does not automatically occur when an alderman of a Lawrason Act municipality has a residence outside of the municipality. However, the board of aldermen may declare a vacancy within the**

office of alderman provided the board determines the alderman is no longer domiciled or “actually residing” within the municipality.

◇ Alderman must maintain his residence in the district from which he was elected to remain qualified for office; should he fail to maintain residency, the governing authority may declare the office vacant. **AG Op. No. 04- 0364.**

AG Op. No. 10-0266 – A candidate must be registered to vote in the municipality at the time of qualifying for office.

Q.15. What are the powers, duties and responsibilities of the Board of Aldermen or council? [R.S. 33:362, 404.1](#)

A.15. The board of alderman is the municipality’s legislative body.

- An alderman acting alone, without the authority of the board, cannot bind the municipality. **AG Op. No. 98-474;**
- The board (by ordinance) sets the salaries of the mayor, aldermen, clerk, chief of police and all other municipal officers;
 - ▣ The board may increase or decrease the salaries of the aldermen and non-elected officials; and
 - ▣ The board may increase, but not decrease, the salaries for elected officials during their term in office.

There is a split in the circuits related to reducing the salary of the newly elected chief of police. The second circuit holds that the Board of Aldermen may change the salary before the term of office begins. The third circuit says that the term of office begins when the official qualifies and is elected so the salary cannot be reduced after the chief is elected.

- Board approval is required for the appointment or removal of the non-elected chief, clerk, municipal attorney, any department head and a CPA conducting the review, compilation or audit as required by the audit law;
 - ▣ The board may not, however, authorize the removal without the recommendation of the mayor. **AG Op. No. 03-296**
- The board must approve or disapprove the annual operating and capital improvements budgets submitted by the mayor. (The Local Government Budget Act must be followed. R.S. 33:1301 *et seq.*);

- The express or implicit authorization of the board is required for all public expenditures. **AG Op. No. 09-0187**; and
- The board and mayor shall produce an annual financial statement, which is available for inspection and transmitted to the Legislative Auditor no later than six (6) months after the end of the fiscal year.

Q.16. What if there is a vacancy on the Board?

[R.S. 33:385\(B\)](#)

A.16. A vacancy in the office of alderman is filled pursuant to [R.S. 18:602](#).

- The governing authority, within 10 days, appoints a person to fill the vacancy who meets the qualifications of the office;
- The presiding officer is not required to vote on such an appointment unless a tie vote occurs, in which case he must vote to break the tie. However, in no case shall he vote more than once on the appointment;
- If a vacancy is not filled within the time specified, the governor fills the vacancy. If the unexpired term of an office is one year or less, the person appointed to fill the vacancy or designated to assume the duties of the office serves for the remainder of the unexpired term;
- If the unexpired term exceeds one year, the governing authority, within 10 days after the vacancy occurs, must issue a proclamation ordering a special election to fill the vacancy and specify in the proclamation, the dates on which the primary and general elections will be held and, the dates of the qualifying period for candidates in the special election. In selecting the dates for such special elections, the governing authority may choose a gubernatorial or congressional election date, if such date is available within a year of the occurrence of the vacancy or may select an election date in accordance with state law;
- If the governing authority fails to issue the proclamation within 10 days after the vacancy occurs, the governor issues the proclamation;
- In the event of a tie vote in filling a vacancy, the mayor as the presiding officer shall vote to break the tie;
- If the mayor fails or refuses to do so, the members of the board must notify the governor of the existence of the vacancy; and
- Within 10 days after he receives the notice, the governor shall make an appointment to fill the vacancy.

Q.17. May an Alderman hold two positions in the municipality? (Dual Office-holding) [R.S. 33:385\(C\)](#)

A.17. No board member shall hold any other office or employment under the municipal government while a member of the board, except as is provided for in [R.S. 33:381](#) and [R.S. 33:386](#).

- Clerk or chief of police may be tax collector or assessor, if the board so decides.

◇ An elected board member cannot also be a member of the municipal planning commission or the municipal board of adjustment. **AG Op. No. 07-0109**

◇ Louisiana's dual officeholding and dual employment laws allow a person to hold an elective office in a political subdivision of this state and at the same time to hold a part-time appointive office in the government of a political subdivision, as follows:

No person holding an elective office in a political subdivision of this state shall at the same time hold another elective office or full-time appointive office in the government of this state or in the government of a political subdivision thereof. No such person shall hold at the same time employment in the government of this state, or in the same political subdivision in which he holds an elective office....LSA-R.S. [42:63\(D\)](#).

AG Op. No. 03-0074

[AG Op. No. 11-0025](#) – The governing authority of a Lawrason Act municipality may not by ordinance prohibit an elected chief of police from holding employment in the private sector.

Q.18. What are the qualifications of the Chief of Police or Marshal? [R.S. 33:381.1, 33:385.1](#)

A.18. The chief of police (marshal) is elected at large. He must be:

- An elector of the municipality;
- At the time of qualification as a candidate, he must have been domiciled for at least the immediately preceding year in the **municipality**. [R.S. 33:385.1](#);
 - However, the elected chief of police of a **village** at the time of qualification as a candidate must have been domiciled for at least the immediately preceding six months in the village. R.S. [33:385.1](#)
- Municipalities where the chief is appointed rather than elected as of August 1, 1970, may continue to operate with an appointive chief [R.S. 33:381\(B\)](#);

- A majority of the qualified electors voting at a special election called by the board for that purpose may authorize the mayor to appoint the chief, with board approval;
- The election must be called only upon the presentation of a petition, directed to the board and signed by at least 25% of the qualified electors of the municipality;
- Once the election has been called and held, no further or other election on the same question can be held for at least four years;
- Upon a vote to authorize the mayor to appoint the chief, the first appointment shall be made at the end of the term of the chief in office at the time the election was held unless at that time the office of chief is vacant or the incumbent is an appointed official;
- Upon the expiration of at least four years after the effective date of determination that the chief be appointed rather than elected, the people may determine that the office shall be elective, but only in the same manner and procedure as described above;
- R.S. 33:381.2 as applied to municipalities with a population of 5,000 or less, provides for changing the position of chief from elected to appointed office when appropriate procedure is followed. **AG Op. No. 09-0005**
- In a municipality with a population of 5,000 or less according to the latest federal decennial census, voters may, at a special election called by the municipal governing authority for that purpose, authorize the mayor to thereafter appoint a marshal who is the chief of police with the approval of the governing authority or provide for the election of a marshal who is the chief of police;
- The election is called only upon the adoption of an ordinance by a two-thirds vote of the governing authority;
- Once the election has been called and held, no further or other election on the same question shall be held for at least four years;
- If the voters of any municipality authorize the mayor to appoint the marshal, the first appointment shall be made at the end of the term of the marshal in office at the time the election was held unless at that time the office of marshal is vacant or the incumbent is an appointed official;

- If the voters vote to elect the marshal, the term for the elected marshal shall begin at the end of the term of the marshal in office at the time the election was held unless at that time the office of marshal is vacant; and
- Upon the expiration of at least four years after the effective date of any such determination that the marshal shall be an appointed rather than an elected official or an elected rather than an appointed official, the people of any such municipality may determine that said official shall be elected or appointed, according to the same procedure. [R.S. 33:381.2](#)

Q.19. What are the powers, duties, and responsibilities of the Chief of Police or Marshal? [R.S. 33:423](#)

A.19. The chief of police is *ex officio* a constable. He has general responsibility for law enforcement in the municipality and is charged with the enforcement of all ordinances within the municipality and all applicable state laws. He is to perform all other duties required of him by ordinance.

- The chief of police may be tax collector or assessor, if the board so decides; [R.S. 33:381\(B\)](#)
- An elected chief is to make recommendations to the mayor and board for appointment of police personnel, for the promotion of officers, to effect disciplinary action, and for dismissal of police personnel. The nominations or recommendations are to be made regardless of race, color, disability, or creed; [R.S. 33:423](#)
- **Act 20 of the 2011 First Extraordinary Session**, effective 6/12/11, amended R.S. 33:423.14 to delete the reference to population count and substitute the City of Westwego instead, as follows: the duties of the assistant chief of police of the city of Westwego are determined by the chief, and the assistant chief shall act as chief in the administration of the police department in the absence of the chief; [R.S. 33:423.14](#)

1. Note also that Act 20 amended R.S. [33:365](#) [Jonesboro], [33:423.11](#) [Winnfield], [33:423.20](#) [White Castle], [33:423.21](#) [Independence], [33:441.30](#) [Village of Evergreen], and [33:447.2](#) related to mayor's courts in the listed municipalities.

[See Q. 37 for a discussion of Act 282 of the 2011 Regular Session.](#)

- The law enforcement authority granted the appointed chief of

police of the Village of McNary is restricted to the territorial limits of the municipality. In order to be vested with police powers outside his jurisdiction, the chief of police must obtain a special commission from the sheriff as provided in [La. R.S. 33:1435.1](#). It is our further opinion that your ability to exercise the parish-wide law enforcement authority granted to you under the terms of this special commission may be restricted by ordinance of the board of alderman, and/or at the mayor's direction, as by law you are subject to the mayor's supervision. **AG Op. No. 10-0036**

- The duties, responsibilities and qualifications of an appointed chief are defined by ordinance. He has no other authority.
AG Op. No. 05-0170
- As the town of Jonesville has an appointed and not an elected chief of police, the mayor has the authority to hire and fire police department employees. **AG Op. No. 04-0209**
- The aldermen may not adopt an ordinance regarding the duties of an appointed chief without the concurrence of the mayor.
AG Op. No. 05-0127
- The chief of police, elected or appointed, may not, by agreement, transfer his powers and duties to the mayor.
AG Op. Nos. 00-51 and 06-0105
- The mayor does not have the authority to control the expenditures of the police department. The chief of police has the inherent authority to control or administer the day to day operations of the police department. **AG Op. No. 02-450**

Q. 20. What are the duties of the Clerk?

[R.S. 33:421](#)

A. 20. The duties of the Clerk are:

- Minute book - The clerk is to keep a book to be labeled "Municipal Minutes, City of _____," or "Town of _____," or "Village of _____," as the case may be, in which he shall record the proceedings of the mayor and board, and keep the same fully indexed alphabetically, so that all entries on the minutes can be easily found;
- Seal - The clerk is the custodian of the municipal seal;

- Docket - The clerk is to keep a book, to be styled "Municipal Docket, City of _____," or "Town of _____," or "Village of _____," as the case may be, upon which he shall enter each claim against the municipality, and each subject matter to be acted upon by the mayor and board. After each meeting he shall make up such docket for the next regular meeting. He is to examine the state laws and municipal ordinances to ascertain subject matter required or proper to be acted upon at the following meeting, and docket all such matters;
- Records - He is to keep such other books and records as may be provided for by ordinance, and file in his office and preserve all records and papers appertaining to the business of the municipality;
- Tax records - The clerk is to keep a book to be styled "Tax Record, City (or town, or village) of _____," in which he shall enter all deeds to individuals, and the list of lands sold to the municipality by the tax collector, showing (a) description of the land, (b) as whose property sold, (c) date of sale, (d) amount of taxes, costs, and damages due, and to whom the costs are owing, (e) when redeemed, (f) by whom redeemed, (g) date of redemption, and (h) amount paid therefore;
- The clerk shall serve as auditor; [R.S. 33:422](#)
- The clerk may also be tax collector or assessor, if the board so decides; [R.S. 33:381\(B\)](#)
- Auditor - The clerk is also the auditor. He must keep a book to enter and preserve accounts of each particular fund and the accounts of each municipal officer. The treasurer shall not receive money from any source until the same has been reported to the clerk and audited, and a receipt warrant issued. All fines and forfeitures are to be reported by the collecting officer, immediately after such collection, and paid into the treasury. The books of the auditor are subject to inspection by taxpayers of the municipality during business hours.

Q. 21. What are the duties and responsibilities of the tax collector? [R.S. 33:424](#)

A. 21. The tax collector must:

- Collect, account for, and pay over all taxes levied by the municipality;
- Perform all other duties required of him by ordinance, or as may be required by law of collectors of parish and state taxes, under the same penalties prescribed by law for the collection of state and parish taxes;

- The tax collector, and the sureties on his official bond, are liable to the municipality for any defalcation, shortage or embezzlement of, or failure to account for, funds of the municipality collected by him, until he has obtained a quietus or discharge from the municipality for the amount of such collections, and for all public money with which he may have been entrusted:
 - Notwithstanding his term as tax collector may have expired, the liability of the tax collector, and the sureties on his official bond, shall be a continuing liability enforceable by the municipality against any property of the tax collector, and that of the sureties on his official bond, standing of record in his or their names at the date of the discovery of such defalcation, shortage, embezzlement or failure to account for, said funds, and until such quietus or discharge has been obtained, and regardless of whether the official bond has been placed on record or not;
 - If the surety on the bond is an indemnity company authorized to do business in this state, or if there are personal sureties, it or the personal sureties, or either of them, or the tax collector, may proceed by rule, taken contradictorily with the municipality in district court, to obtain a quietus from the municipality, and a cancellation of the official bond, if more than two years have elapsed from the date of the discovery of any defalcation, shortage or embezzlement of, or failure to account for, any funds of the municipality, without legal action having been taken by the municipality to collect the sum or sums representing the alleged defalcation, shortage or embezzlement of, or unaccounted for, funds, from the tax collector or his sureties; ■ The obligations imposed upon the tax collector, and the sureties on his official bond, and the measure of their respective liabilities on the bond and the effect thereof upon the respective properties of such tax collector, or sureties, shall be implied conditions of the bond fully binding and enforceable against the tax collector and sureties on his bond and their respective properties, as though the same had been specially written therein;
- The clerk or chief of police may be a tax collector or assessor, if the board so decides. [R.S. 33:381\(B\)](#)

Q.22. What are the duties of the Treasurer?

[R.S. 33:425](#)

A. 22. The treasurer is to:

- Receive, safely keep, and pay out according to law, all monies belonging to the municipality;

- Keep accurate accounts of all receipts and disbursements, and make written report of municipal finances to the mayor and board, at each regular meeting; and
- Perform all other duties prescribed by ordinance; and pay out money only on the warrant issued by the order of the mayor and board.

Q.23. What are the duties of the Street Commissioner? R.S. 33:426

A.23. The mayor may appoint a street commissioner, subject to board confirmation. The street commissioner, under the direction of the mayor and board, has:

- General control of the streets, alleys, avenues, and sidewalks;
- Sees that they are always in proper repair by having them worked, repaired, altered, paved, lighted, sprinkled, and everything else done that ought to be done to keep them in good repair and condition; and
- Performs all other duties as directed by the mayor.

Q.24. Can the Mayor hire an attorney for the municipality? R.S. 33:386(C)

A.24. The mayor, subject to board confirmation, may:

- Appoint and fix compensation for an attorney for the municipality, whose duties may include representation of all municipal officers in actions against them in connection with and arising out of their functions as such officers, and other duties as prescribed by the mayor. The municipality may also employ counsel to represent its interest should the occasion require;
- The board of aldermen in its discretion may also, upon request of the mayor, appoint one or more attorneys who shall be designated as court magistrate and who shall serve at the pleasure of the mayor and may from time to time be designated by the mayor to serve in his stead as the presiding official over the mayor's court. Whenever a magistrate is so designated by the mayor to preside over the mayor's court, he shall exercise the powers and authority of the mayor over said court. The board of aldermen shall fix and pay the salary of the each magistrate, if any are appointed; and R.S. 33:441(B)
- The board of aldermen in its discretion may also, upon request of the mayor, appoint one or more attorneys who shall be designated as prosecutor and who shall serve at the pleasure of the mayor. The board of

aldermen shall fix and pay the salary of each prosecutor, if any are appointed. [R.S. 33:441\(C\)](#)

Q.25. What officials must the Mayor appoint? [R.S. 33:386](#)

A.25. At the first regular board meeting succeeding each regular municipal election, the mayor, subject to board confirmation, must appoint:

- A clerk;
- A tax collector; and
- And, all other necessary officers whose election is not provided for in [R.S. 33:381*](#).
 - In the event of a vacancy, the mayor, subject to board confirmation, will appoint a successor. In making or approving such appointments and in filling vacancies, the mayor and board shall give preference to municipal residents if all other considerations are equal.

■ **Note: [Act 41 of the 2011 Regular Session](#), effective 8/15/11, amended [R.S. 33:381](#) to state that the chief of police of the town of Simmesport shall be appointive and added other provisions relative to the appointment.*

Q.26. What other rules are applicable to these appointed officials?

A.26. Bonds

- The clerk and tax collector must execute bonds to the municipality in such amounts and with such surety and conditions as may be prescribed by ordinance and hold their offices until their successors are appointed and qualified. [R.S. 33:386\(B\)](#)

Compensation

- The board shall, by ordinance, fix the compensation of the mayor, aldermen, clerk, chief of police, and all other municipal officers. The board may, by ordinance, increase or decrease their compensation and the compensation of any nonelected municipal officer and may increase the compensation of other elected officials. However, the board shall not reduce the compensation of any elected official during the term for which he is elected. [R.S. 33:404.1](#)

Term

- The term of the clerk, tax collector, nonelected chief of police, street commissioner, attorney, and court magistrate ends at the time of the first regular board meeting succeeding each regular municipal election.

[R.S. 33:386\(D\)](#)

Vacancy

- Any vacancy to which the officer is elected or appointed by the mayor and board may be filled for the term by the mayor and board at any regular or special meeting.

[R.S. 33:383\(C\)](#)

Conflict of Interest

- No board member or any other officer, shall be directly or indirectly interested in any work, business, or contract the consideration of which is to be paid from the treasury, nor be surety for any person having a contract, work, or business with the municipality, for the performance of which security may be required, nor be surety for any officer or employee.

[R.S. 33:385\(C\)](#)

Q. 27. What are the various rules regarding Board Meetings?

[R.S. 33:405](#)

A. 27. Presiding officer

- The mayor presides at all board meetings, and in case there is an equal division, he shall give the deciding vote.

Mayor pro tempore

- The board is to select an aldermen to be mayor pro tempore, to preside at all meetings in the absence of the mayor, have the same power, and perform all duties of the mayor in the absence or disability of the mayor, except the veto power. In the absence of both the mayor and the mayor pro tempore, the board may select another alderman to preside temporarily and perform the duties of the mayor. The mayor must notify the mayor pro tempore when he will be absent from the municipality. The mayor pro tempore will notify the alderman selected to perform the duties of the mayor when he and the mayor will both be absent from the municipality.

Initial meeting

- The governing authority of a newly incorporated municipality may hold its first meeting at such time and place as may be most convenient, but thereafter must meet regularly at a specified date, place, and hour formally designated by ordinance.

Regular meetings

- The mayor and board must hold not less than one regular meeting in each month on a date and at a place and hour to be fixed by ordinance; and
- The board must give public notice of the contents of the ordinance pursuant to Open Meetings Law.

Special meetings

- Special meetings may be called by the mayor or a majority of the board. The board is to establish, by ordinance, how notice of special meetings is to be provided to board members and the mayor. The notice must specify the business to be considered at the special meeting. Public notice is to be given as provided in the Open Meetings Law.

Act 250 of the 2010 Regular Session amended [R.S. 33:405\(C\)](#) regarding an item not on the agenda for the special meeting.

Notwithstanding any other law to the contrary and pursuant to Act No. 131 of the 2008 Regular Session of the Legislature, an item which is not on the meeting agenda may be considered by the mayor and the board of aldermen only after a unanimous vote of consent by the board and only after announcing the purpose of the item and allowing anyone in the audience to speak on the item.

Emergency meetings

- In cases of extraordinary emergency, as defined in the Open Meetings Law, the mayor or any alderman may call an emergency meeting of the board. The board members and the mayor must be notified in the most practical manner available, and the purpose of the meeting may be stated in general terms. Notice is to be given as provided in the Open Meetings Law. The board may adopt an ordinance at an emergency meeting that it has not previously considered. The ordinance shall specify the nature of the emergency, and a two-thirds vote of members of the board is required for its adoption. No emergency ordinance can continue in force for more than 60 days and any emergency ordinance that specifies a longer duration or no duration becomes void 60 days after it becomes effective.

Quorum

- A majority of the members of the board constitutes a quorum at any meeting.

Continuance

- Any meeting may be continued to another date announced at the meeting with the consent of a majority of the board members. Any meeting that fails for want of a quorum may be continued to a date announced at the meeting with the consent of the majority of aldermen present or, if only one alderman is present, to the date he announces. However, a meeting that fails for want of a quorum cannot be continued but once.

Open Meetings

- All meetings are subject to the Open Meetings Law.

Q.28. What are the rules regarding ordinances and resolutions?

R.S. 33:406

A.28. Ordinances

- Any law enacted by a board must be by ordinance. The style of all ordinances shall be: "Be it ordained by the board of aldermen of the City (or Town or Village, as the case may be) of;" and
- No ordinance can be adopted except by the affirmative vote of a majority of the board members.

◇ An amendment to the annual operating budget adopted by ordinance in a Lawrason Act municipality must be made by ordinance. **AG Op. No. 00-462**

The procedures governing the enactment of ordinances in general in a Lawrason Act municipality are set forth in R.S. [33:406](#). Interpreting R.S. [33:406](#), the AG's office has recognized the distinction between a resolution and an ordinance, the latter carrying the force and effect of law, while the former expresses the opinion of the current administration. **AG Op. No. 00-462**

◇ The governing board for a town governed by the "Lawrason Act" may adopt an ordinance designed to regulate the domicile of registered sex offenders within the town's limits as long as the ordinance does not conflict with state law and does not carry provisions that are more restrictive and/or provide for punishment of any felony offense or carry penalties that are harsher than those provided by state law. **AG Op. No. 05-0231**

Resolutions

- Any act of the board which is not law is by resolution. A resolution must be approved by an affirmative vote of a majority of the board members

present at a meeting. No resolution requires the signature or other action of the mayor to become effective.

Appropriations

- Any act of the board which would provide for the appropriation of funds, the incurrence of debt, or the issuance of bonds or other evidences of indebtedness must be by ordinance. However, the board may, by resolution, adopted by the affirmative vote of a majority of the board members require the expenditure of funds previously appropriated. The resolution must be presented to the mayor within three days after its adoption for his approval or disapproval.

Procedure for Ordinance

- A proposed ordinance may be introduced by any alderman at any board meeting. Each proposed ordinance is to be in writing. An ordinance can contain only one subject which is to be indicated in its title except for ordinances involving the annual operating budget, a capital improvements budget, or a codification of municipal ordinances;
- After a proposed ordinance has been introduced, copies are to be provided to all board members and the mayor;
- The title of a proposed ordinance, except those specifically authorized by R.S. [33:405\(D\)](#), must be published once in the official journal;
- The notice must indicate the time and place where the board will consider its adoption;
- No ordinance, except one authorized by R.S. [33:405\(D\)](#), is to be adopted until a public hearing on it has been held;
- No ordinance, except one authorized by R.S. [33:405\(D\)](#), can be adopted at the meeting at which it is introduced;
- Each proposed amendment to an ordinance is to be presented in writing or reduced to writing before its final consideration;
- An amendment to a proposed ordinance shall not nullify the purpose of the proposed ordinance nor, except for ordinances involving the annual operating budget, a capital improvements budget, or a codification of ordinances, add a new subject matter to it;

- A proposed ordinance must be read by the title when called for final passage;
- The vote on an ordinance at final passage shall be taken by "yeas" and "nays," and the clerk is to enter the names of the aldermen voting for and against each proposed ordinance or amendment on the minutes;
- Every ordinance adopted by the board must be signed by the clerk and presented by him to the mayor within three days after its adoption;
- The mayor, within 10 days of receipt of an ordinance, must return it to the clerk with or without his approval, or with his disapproval;
- If the ordinance is approved by the mayor or is returned by the mayor with neither his approval nor disapproval, the ordinance becomes law upon its return to the clerk;
- If the mayor fails or refuses to return an ordinance to the clerk within 10 days of its receipt, it becomes law at midnight of the tenth day after the receipt of the ordinance by the mayor;
- If the mayor disapproves the ordinance, he shall, within 10 days after its receipt, return the ordinance along with his written statement of the reasons for his veto to the clerk for transmittal to each board member;
- The clerk is to record upon each ordinance the date of its delivery to the mayor and the date of receipt from the mayor, if any;
- An ordinance vetoed by the mayor must be considered again by the board at its next regular meeting after the veto. The board may vote on the ordinance at that meeting or at a continuance of that meeting;
- If a board consists of three members, an affirmative vote by all board members is required to override a mayor's veto;
- If a board consists of more than three members, an affirmative vote of two-thirds of the board's members is required to override a mayor's veto;
- If a board overrides an ordinance vetoed by a mayor, the ordinance becomes law upon its enactment by the board;
- The clerk is to keep a book entitled "Ordinances, City (or Town, or Village) of" in which he shall file the original of every ordinance which has been adopted by the board immediately after its passage and attach a note to the ordinance stating the date of its enactment and a

reference to the book and page of the board's minutes containing the record of its adoption;

- The clerk is to publish each adopted ordinance once in the official journal within 20 days of its adoption and prior to its effective date, except as otherwise provided in R.S. [33:405\(D\)](#);
- Unless an ordinance specifies an earlier or later effective date, the ordinance takes effect on the thirtieth day after the meeting in which the ordinance was adopted;
- Only the board may suspend an ordinance, and then only by the same vote and, except for mayoral veto, according to the same procedures and formalities required for enactment of that ordinance; and
- After January 1, 1986, every resolution suspending an ordinance shall fix the period of suspension, which cannot exceed beyond one year and 30 days after the date of the meeting in which the ordinance was suspended. The Louisiana Municipal Association has a summary of ordinance rules.

Q.29. What are the rules and requirements for a Mayor's Court? [R.S. 33:441](#)

A.29. Authorization

- In Lawrason Act municipalities, except where a city courts exist, there shall be a mayor's court in the municipality, with jurisdiction over all violations of municipal ordinances.

Presiding officer

- As presiding officer of the court, the mayor may try all breaches of the ordinances and impose fines or imprisonment, or both, provided for the violation.

Costs

- The mayor may also impose court costs not to exceed \$30 for each offense, as defined by ordinance, on any defendant convicted of a violation
 - The mayor may authorize that a portion of court costs assessed be deposited into a special account and transmitted to the Louisiana Association of Chiefs of Police to be used for law enforcement education and training as required by Louisiana law

Suspension of sentence; probation

- The mayor may suspend the execution in whole or in part of a fine or imprisonment, or both, imposed for violation of a municipal ordinance and place the defendant on unsupervised or supervised probation with such conditions as the mayor may fix and, at any time during the probation, modify, add, or discharge. The probation shall be for a period as the mayor shall specify up to one year. The mayor may terminate or revoke the probation at any time. At the termination of the probation, the mayor may set the conviction aside and dismiss the prosecution; and
- When a defendant has been convicted of violation of a municipal ordinance, the mayor may suspend the imposition or the execution of the whole or any part of the sentence and place the defendant on unsupervised probation upon such conditions as the mayor may fix. Such suspension of sentence and probation shall be for a period of six months or such shorter period as the mayor may specify. But in no case shall the probationary period imposed exceed the maximum penalty of imprisonment that may be imposed for violation of a particular ordinance.

Mayor as magistrate

- The mayor has the power of a committing magistrate.

Immunity

- The presiding officer of a mayor's court is entitled to judicial immunity for his official acts as presiding officer in the same capacity as a judge in this state.

Appointed magistrates

- The board may, upon request of the mayor, appoint one or more attorneys to be designated as court magistrate to serve at the pleasure of the mayor and who may from time to time be designated by the mayor to serve in his stead as the presiding official over the mayor's court. Whenever the magistrate is so designated by the mayor to preside over the mayor's court, he exercises the powers and authority of the mayor over the court. The board is to fix and pay the salary of the magistrate, if one is appointed;
- The board of aldermen in its discretion may also, upon request of the mayor, appoint one or more attorneys who shall be designated as prosecutor and who shall serve at the pleasure of the mayor. The board of aldermen shall fix and pay the salary of each magistrate, if any are appointed.

Docket

- The mayor shall keep a regular docket, on which he shall enter the causes arising under the ordinances and to be tried by him. He shall keep a perfect record of all cases tried. [R.S. 33:442](#)

Sessions

- The mayor may hold his court at any time.

Marshal

- The marshal is to attend the court and serve its process and act as its executive officer.

Q.30. How are Ad Valorem Taxes handled by the Lawrason Act? [R.S. 33:461](#)

A.30. Assessment

- The assessment of property for taxation is made by the clerk or tax collector, by copying from the parish assessment rolls that portion which embraces property or persons within the corporate limits. The copy may be made at any time after the assessment rolls are approved, and all changes in the parish assessment thereafter made shall likewise be made in the copy. The copy must be placed in the hands of the municipal tax collector and be his warrant for the collection of municipal taxes. In all cases where persons or property have escaped taxation for a previous year, the clerk shall assess the same for taxation, and his assessment, when approved by the mayor and board, on notice to the person assessed, shall be binding and conclusive, unless appealed from within five days after their approval.

Levy

- The mayor and board shall levy the municipal taxes at the regular meeting in September of each year, or, in case of failure to do so, at any other regular meeting thereafter.

Collection

- The tax collector is to collect municipal taxes during the time and in the same manner and under the same penalties as the state and parish taxes are collected. He must, where not otherwise provided, be governed by the general revenue laws of the state, so far as applicable, in making such

collection; but he is to make the required reports to the mayor and board, pay over the money collected to the municipal treasurer; and receive only such commission or compensation as may be allowed by ordinance.

Nonpayment

- Sales for the nonpayment of municipal taxes are made by the tax collector at such place, within the corporate limits as the mayor and board may direct. The sale of real estate and the distraint and sale of personal property shall be made upon the same notice, at the same time, and in the same manner as provided by law for sale of like property for unpaid state and parish taxes. The deed to the purchasers for lands so sold shall be filed with the parish clerk of court, and remain subject to redemption for the same length of time, and in the same manner as prescribed for the redemption of land sold for state and parish taxes. Where lands are offered for sale for unpaid municipal taxes, and a person will not bid therefor, the amount of taxes, damages, and costs due the same shall be struck off to the municipality, and otherwise dealt with as lands which are sold to the state for delinquent state and parish taxes. The board may pay the state and parish taxes on lands thus acquired by it, and collect the money thus paid, with the damages and interest allowed individuals in similar cases under the general revenue laws of the state, from the date of such payment, upon the redemption of the lands from the municipal sale. The deeds of the tax collectors to individuals and a list of the lands sold to the municipality, which shall be made as required to be made by the state and parish collector, shall be filed within 10 days after the tax sale, with the municipal clerk. Each shall have the same force and effect, and confer the same right, and be entitled to the same remedies, as deeds and lists made for delinquent taxes by the state and parish tax collector, but such title shall be subject to a title acquired under a sale for state and parish taxes.

Q.31. What about Expenditures and Warrants?

R.S. 33:462

A.31. All expenditures of money for any purpose whatever shall be:

- In pursuance of a specific appropriation made by order and in no other manner; and
- Shall be made in accordance with the Public Bid Law:
 - Every warrant drawn on the treasury shall express on its face to whom issued and for what purpose allowed; and
 - and the ordinance authorizing its issue shall be cited by minute book and page, in or upon it.

Q.32. Are municipalities required to file annual audits?

R.S. 33:463

A.32. The mayor and board are to:

- Produce an annual financial statement of the municipality in accordance with generally accepted accounting principles;
 - The minutes of the board must acknowledge that the financial statements have been produced and are available for public inspection; and
 - A copy of the annual financial statement must be transmitted to the legislative auditor within six months of the close of the fiscal year.
- The required audits of municipalities must be in accord with the audit law found at R.S. [24:511](#), *et seq.*
- Other requirements municipalities must follow in the audit law include who is required to perform the audit, how often the audit is to be performed and revenue based audit requirements. These additional requirements are found at R.S. [24:513A\(1\)\(a\)](#); R.S. [24:513A\(3\)](#); R.S. [24:513J\(1\)\(c\)\(i\)\(aa\)](#); R.S. [24:513J\(1\)\(c\)\(ii\)](#); R.S. [24:513J\(1\)\(c\)\(iii\)](#); and R.S. [24:513 J\(1\)\(c\)\(iv\)](#).

Q.33. What about elections?

R.S. 33:383

A.33. Elections

- Held every four years on the date for municipal and ward elections. The officers elected take office on the first day of July following the election and hold office for four years;
- However, the governing authority, by ordinance, may adopt an irrevocable plan for holding elections at the congressional elections. The plan must be filed with the secretary of state not less than one year prior to the opening of the qualifying period for the congressional primary election at which municipal officers are elected initially under the plan. This election must be the first congressional primary election after termination of the terms of office of the municipal officers in office. The elected officers take office on January first following their election and hold office for four years;
- If no election is held on the day prescribed or if a vacancy in any elected office occurs or if an officer elected fails to qualify, the vacancy is filled in accordance with law;

- Officers in office when a municipality elects to come under the Lawrason Act retain their offices until the first election thereafter and possess the powers of like offices;
- In addition, the governing authority of a municipality with a population of not more than 1,000 persons according to the latest federal decennial census which holds municipal elections at the 2004 congressional election, may, by ordinance, adopt a plan for holding municipal elections at the gubernatorial election. No such plan shall be revocable by the governing authority. The plan must be filed with the secretary of state not less than one year prior to the opening of the qualifying period for the gubernatorial primary election at which municipal officers shall be elected initially under the plan with the first such election being held at the 2007 gubernatorial election. The officers elected under the plan take office on the first day of January following their election for four years. The officers elected at municipal elections held at the 2004 congressional election serve until their successors elected under the plan take office on January 1, 2008;
- If no election is held on the day authorized by the adopted plan or if a vacancy in any municipal office elective by the people occurs or if an officer elected fails to qualify, such vacancy shall be filled in accordance with law. Any vacancy in a municipal office to which the officer is elected or appointed by the mayor and board of aldermen may be filled for the term by the mayor and board at any regular or special meeting; and
- Officers of a municipality who are in office when the municipality elects to come under the provisions of this Part under [R.S. 33:322](#), shall retain their offices until the first election under this section.

Q.34. Are there other summaries of the Lawrason Act available?

A.34. The Louisiana Municipal Association has an excellent summary [here](#).

The Secretary of State's Office has a booklet on the Lawrason Act available [here](#) for a \$5.00 fee.

The Public Affairs Research Council of Louisiana has information [here](#).

Common Lawrason Act Questions to the LLA

Q.35. What is the police chief's authority for establishing ticketing quotas?

A.35. AG opinions have consistently held that the establishment of ticketing quotas is permissible when done by the police chief of a Lawrason Act municipality. See AG Op. Nos. 05-0038, 04-0189, and 97-0470. The police chief's authority for establishing ticketing quotas, according to the AG, is inherent under the duties and powers established for a police chief under [R.S. 33:423\(A\)](#). Further, AG Op. No. 05-0038 states that this power is solely that of the police chief and cannot be usurped by the municipality's governing board.

Q.36. May the police chief keep a separate account for donations and auxiliary purposes?

A.36. There is no authority for the chief of police in a Lawrason Act community to establish a separate fund for the deposit of monies generated by the municipal police department. The control, appropriation, and payment of expenses of the police department are within the power of the mayor, board of aldermen, and the Treasurer of the City. (See AG Op. Nos. 92-720 and 87-540.) AG Op. No. 98-469.

However, it should be noted that the mayoral authority over municipal fund accounts does not extend to private funds generated by volunteer police reserve units. AG Op. No. 91-568 held that an elected chief of police could maintain a separate record for a police reserve unit comprising cash donations derived from their security activities at festivals, football games, etc. The AG opined that since the funds generated by the volunteer police reserve unit were the private property of the volunteer police organization, and as such, were not public funds, an elected chief of police has the inherent power to control this property. However, the opinion specifically noted that the fund in question had sufficient accounting controls, because expenditures were approved by a board of directors. AG Op. No. 91-568

Q.37. What other powers and duties does the elected Chief of Police have?

A.37. [Act 282 of the 2011 Regular Session, effective 6/28/11, amended R.S. 33:423](#) related to the powers and authority of the elected chief of police disciplinary action of police personnel. The act also provides for provisional appointment by the chief to fill vacancies subject first to approval of the mayor and next deliberated at the next meeting of the governing authority. The provisional appointment remains in effect unless rejected by the governing authority. For a municipality with a population of not less than 1,000 and not more than 1,500, there are special provisions in Act 282.

The police chief has “general responsibility for law enforcement in the municipality,” and is charged with enforcing all applicable ordinances and state laws and other duties required of him by ordinance. The AG’s office has long recognized that under [R.S. 33:423](#) an elected police chief has the inherent power and authority to supervise and control his office, equipment, and personnel on a

day-to-day basis. (AG Op. #01-216.) Further, once the mayor and aldermen “have budgeted and appropriated money” for the police department, the authority to allocate the expenditure of these funds rests with the elected chief of police. *Doyle v. City of Harahan*, 610 So.2d 272 (La. App. 5 Cir. 1992) **AG Op. Nos. 07-0048 and 98-469**

Q.38. What is the distinction between an elected Chief of Police and an appointed Chief of Police?

A.38. There is a great distinction between the authority of an elected chief of police and a chief of police who holds an appointed office. In the latter situation, the mayor administers the police department and may compel a police officer to follow “a reasonable directive of the mayor.” **AG Op. No. 04-0140.**

See the provisions of Act 282 of the 2011 Regular Session for additional changes.

Q.39. What authority does the Board of Alderman have in directing the city employees of a Lawrason Act municipality?

A.39. Generally, the board of aldermen of a Lawrason Act municipality has the authority to provide, by ordinance, policies and procedures regulating the employment of all municipal employees. While the mayor is the chief municipal administrative officer and is given the authority to supervise and direct the day to day administration and operation of all municipal departments and agencies, he has not been given the specific authority to set or establish municipal policies and procedures which would regulate the employment of municipal employees. The establishment of office hours for municipal employees and other policies which regulate the employment of said employees appears to come within the realm of the board's authority to provide policies and procedures regulating the employment of municipal employees. **AG Op. No. 86-325**

The board of aldermen has the authority to establish, by ordinance, office hours for and regulations requiring the use of a time clock by municipal employees, including the fire chief. **AG Op. No. 03-183**

Q.40. How and when are board meetings held? **R.S. 33:405**

- A.40.**
- The board shall hold at least **one (1) regular meeting** per month;
 - The date, time and place shall be established by ordinance; and
 - A majority of the members constitute a quorum.
- ◇ To determine whether there is a quorum, the alderman serving as mayor pro tempore is included in the count. **AG Op. No. 04-0359**

Q.41. What may be tried in a mayor's court?

R.S. 33:441, 442

- A.41.**
- The mayor's court may hear all cases involving the violation of municipal Ordinances;
 - The mayor may impose fines, imprisonment or both. With a conviction, he may also impose court costs of no more than \$30 per offense;
 - The mayor may hold court at any time;
 - Mayor has authority to suspend execution of penalty and place on probation, fix or modify the terms of the probation, terminate or revoke probation, or set aside conviction;
 - The mayor had the authority to release prisoners out of jail or release on bond, not the chief of police. **AG Op. No. 05-0029;**
 - Upon the mayor's request, the board may appoint an attorney as court magistrate. When presiding over the mayor's court, the court magistrate has the same powers as the mayor;
 - The mayor retains no authority or power over the mayor's court once he has a magistrate appointed to preside over the mayor's court. **AG Op. No. 93-313-A;** and
 - Since the magistrate serves at the pleasure of the mayor, it is within the mayor's discretion to remove the magistrate. **AG Op. No. 93-313A**

Q.42. Who has the authority to supervise and direct the day-to-day operation of municipal departments and agencies?

A.42. Numerous AG Opinions state that the day-to-day operation of municipal departments and agencies is the province of the Mayor, except where the charter vests administrative power with other municipal officers.

- Mayor, rather than members of council, is the chief municipal administrative law officer and is given authority to supervise and direct the day-to-day operation of all municipal departments and agencies. **AG Op. No. 86- 652;**
- A mayor is vested with the administrative authority over the day to day operations of the city, except where the charter vests administrative power with other municipal officers. **AG Op. No. 92-703;** and

- The mayor is the chief municipal administrative officer and is given the authority to supervise and direct the day-to-day operation of all municipal departments and agencies. Aldermen have no individual authority to issue work orders to a municipal department as this administrative task is delegated to the mayor. **AG Op. No. 92-454**

Q.43. May an elected Chief of Police in a Lawrason Act Municipality accrue annual leave?

A.43 Absent any specific provision, an elected chief of police is not entitled to receive compensation for any accrued annual leave because, as a municipal officer, he is not allowed by law to accrue annual leave. **AG Op. No. 05-0007**

Q.44. Where are the local provisions for specific municipalities listed under Lawrason?

A. 44. There are numerous local provisions for specific municipalities listed in Title 33 such as:

[RS 33:363](#), [RS 33:364](#), [RS 33:365](#), [RS 33:381](#), [RS 33:383.1](#), [RS 33:383.2](#);

[RS 33:423.1](#) through [RS 33:423.21](#) ;

[RS 33:441.1](#), through [RS 33:441.30](#); and

[RS 33:443](#) through [RS 33:451](#).

[R.S. 33:2570](#), enacted by [Act 247 of the 2011 Regular Session](#).

[R.S. 13:2575.4](#) enacted by, [Act 271, 2011 Regular Session](#).

[R.S. 33:4574.1.1\(S\)](#) enacted by [Act 292 of the 2011 Regular Session](#).

Check Westlaw for the name of the specific municipality. Unless a municipality is specifically listed in the local provisions, a Lawrason Act municipality must follow the general provisions of the Act.

Q. 45. In addition to the requirements of state ethics law ([R.S. 42:1101 et seq.](#)), are there any ethics provisions for local government entities?

A. 45. Yes, [Act 37 of the 2011 Regular Session](#), effective August 15, 2011, enacted R.S. 33:9612.1 which provides authority to a local government subdivision to adopt and enforce a local code of conduct or ethics ordinances. The entity may regulate the same or similar activity as regulated by the Code of Governmental Ethics,

subject to certain restrictions. The entity's local code cannot interfere with the enforcement of the Code of Government Ethics, R.S. 42:1101 *et seq.*, nor preclude the Board of Ethics from having exclusive jurisdiction over the enforcement of the Code of Governmental Ethics. The entity's code also cannot abridge or abrogate any requirements of R.S. 42:1161 related to self-reporting to the Board of Ethics of suspected violations of the Ethics Code by agency heads.