

March 19, 2007

**S 963. CITY FIREFIGHTERS/OVERTIME PAY.** Filed 3/19/07. *RELATING TO THE HOURS OF LABOR AND VACATION OF MEMBERS OF MUNICIPAL FIRE DEPARTMENTS.* To be summarized in tomorrow's *Daily Bulletin*.

**Intro. by Atwater.**

UNCODIFIED

March 20, 2007

**S 963. CITY FIREFIGHTERS/OVERTIME PAY.** Filed 3/19/07. *RELATING TO THE HOURS OF LABOR AND VACATION OF MEMBERS OF MUNICIPAL FIRE DEPARTMENTS.*

Enacts new law governing the provision and calculation of overtime pay for certain firefighters and other members of a fire department, other than supervisory personnel, of municipal fire departments with full-time paid firefighters. Defines firefighter and supervisory personnel. Establishes formulas for the computation of overtime hours. Provides that a firefighter or other member of a fire department may be required or permitted to work overtime and is entitled to be paid overtime for the excess hours worked without regard to the number of hours worked in any one week of the work cycle. Sets overtime rate at 1.5 times the compensation paid to the employee for regular hours.

**Intro. by Atwater.**

UNCODIFIED

May 16, 2007

**S 963. CITY FIREFIGHTERS/OVERTIME PAY.** Filed 3/19/07. Senate committee substitute deletes all provisions of the 1st edition and replaces it with *AN ACT RELATING TO THE HOURS OF LABOR AND OVERTIME COMPENSATION OF MEMBERS OF MUNICIPAL FIRE DEPARTMENTS.* Enacts new Article 14A, comprised of GS 160A-295, GS 160A-295.1, GS 160A-285.2, and GS 160A-295.3, codifying as part of state law provisions mirroring 29 U.S.C. 207(k), which provides for an exemption for firefighters from those federal Fair Labor Standards Act provisions governing the payment of overtime. The new article does not track the federal law in all respects, however. Under the 207(k) exemption, government employers who elect to pay firefighters on the basis of a 28-day (or any part thereof) work schedule are not required to pay overtime compensation until a firefighter has physically worked in excess of 212 hours in that 28-day cycle (firefighters on a seven-day schedule are not owed overtime until they have physically worked in excess of 53 hours). Proposed new GS 160A-295.1 and 160A-285.2 effectively mirror the federal provision, but do not provide for the formal election and notation of the 28-day work cycle and require overtime pay only when a firefighter works more than 53 hours in a seven-day period (or a commensurate number of hours in a work period that is a multiple of seven). (Under federal law, it would be possible for a city to base firefighter pay on a standard 40-hour/seven-day schedule. If the firefighters worked in excess of 53 hours in a disaster, for example, they would be owed 13 hours of overtime pay). Thus, this provision appears to be inconsistent with federal law. Subsection (b) of proposed new 160A-295.1 provides that the non-firefighting members of a fire department are entitled to overtime when they are required or permitted to average more hours in a week than the number of hours in a normal work week of the majority of the employees of the municipality other than public safety personnel. (This provision also appears to be potentially inconsistent with federal law, which provides that non-firefighting employees of a fire department are to be paid overtime when they have physically worked in excess of 40 hours). Proposed new GS 160A-295.2 authorizes the state Department of Labor to enforce the provisions of the article to the extent that they are not subject to enforcement by the U.S. Department of Labor. Proposed new GS 160A-295.3 provides that the article applies only to full-time paid firefighters and other full-time fire department employees of a municipality that employs five or more employees in fire protection in a given workweek. Effective January 1, 2008.

July 10, 2008

**S 963. CITY FIREFIGHTERS/OVERTIME PAY.** Filed 3/19/07. House committee substitute makes the following changes to 2nd edition. Changes the effective date from January 1, 2008, to when 29 U.S.C. § 207(k) is repealed or no longer enforceable.

August 8, 2008

**SL 2008-151 (S 963). CITY FIREFIGHTERS/OVERTIME PAY. AN ACT RELATING TO THE HOURS OF LABOR AND OVERTIME COMPENSATION OF MEMBERS OF MUNICIPAL FIRE DEPARTMENTS.** Summarized in *Daily Bulletin* 3/20/07, 5/16/07, and 7/10/08. Enacted August 2, 2008. Effective when 29 U.S.C. § 207(k) is repealed or is no longer enforceable.