



Internal Memorandum

Legal Department

TO: Gregory J. Logan, City-Parish Attorney

CC: Joshua S. Guillory, Mayor-President
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FROM: Michael D. Hebert, Assistant City-Parish Attorney

SUBJECT: Ordinance No. PO-039-2020 -- Computation of Time for Veto Pursuant to Section 2-13(B) of City-Parish Charter

DATE: September 13, 2020

The issue has arisen as to how to calculate the ten (10) day veto period of Section 2-13(B) of the Lafayette City-Parish Consolidated Government Home Rule Charter (the "Charter"), as that time period applies to Ordinance No. PO-039-2020. I am informed that Ordinance No. PO-039-2020 was presented to Mayor-President Guillory by the Clerk of the Council on Wednesday, September 2, 2020, and the specific question presented is when the veto period of Section 2-13(B) expires if the subject ordinance was presented to the Mayor-President on that date.

Section 2-13(B) of the Charter provides as follows in pertinent part:

Within ten (10) days after the Mayor-President's receipt of an ordinance, it shall be returned to the Clerk of the Council with the Mayor-President's approval or with the Mayor-President's veto.

The Charter is silent as to how this ten-day period should be calculated, but interpretation and construction of home rule charters is governed by the same rules applicable to interpretation and construction of other laws. *Montgomery v. St. Tammany Parish Government*, 2017-1811 (La. 6/27/18), ___ So.3d ___, 2018, WL 3151290, p. 4. One of these rules is that it is presumed that the body enacting the law (in this case, the voters of Lafayette Parish) intended to achieve a consistent body of law. *Pumphrey v. City of New Orleans*, 2005-0979 (La. 4/4/06), 925 So.2d 1202, 1210, citing *Stogner v. Stogner* 98-3044 (La. 7/7/99), 739 So.2d 762, at 766. Similarly, provisions of law must be interpreted so as harmonize them if possible and to give the fullest effect to each provision. *Id.*, See also La. Civ. Code Art. 13.

Applying these rules of interpretation and construction to this situation, we turn to existing provisions of Louisiana law that specifically govern computation of periods of time. The clearest expression of the rules to compute legal time periods appears in Article 5059(A) of the Louisiana Code of Civil Procedure, which provides as follows (emphasis added):

In computing a period of time allowed or prescribed by law or by order of court, the date of the act, event, or default after which the period begins to run is not to be included. The last day of the period is to be included, unless it is a legal holiday, in which event the period runs until the end of the next day which is not a legal holiday.

In accord is Article 3454 of the Louisiana Civil Code, which provides as follows with regard to the computation of a prescriptive period (emphasis added):

In computing a prescriptive period, the day that marks the commencement of prescription is not counted. Prescription accrues upon the expiration of the last day of the prescriptive period, and if that day is a legal holiday, prescription accrues upon the expiration of the next day that is not a legal holiday.

Pursuant to La. R.S. 1:55(A)(1) and (2), Saturdays and Sundays are legal holidays, although in some circumstances Saturdays are considered to be “half-holidays.” This is of no legal consequence one way or the other, because “[a] half-holiday is to be considered as a legal holiday.” La. Code Civ. Proc. Art. 5059(B).

Application of these rules to the presentation of Ordinance No. PO-039-2020 yields the following result:

1. The day of presentation of Ordinance No. PO-039-2020, Wednesday, September 2, 2020, is not counted toward the ten-day veto period of Section 2-12(B) of the Charter.
2. The first day of that ten-day period was Thursday, September 3, 2020, which means that the tenth day of that ten-day period was Saturday, September 12, 2020.
3. However, Saturday, September 12, 2020 is a legal holiday.
4. Sunday, September 13, 2020 is also a legal holiday.
5. The first day after expiration of the ten-day period that is not a legal holiday is Monday, September 14, 2020.
6. Therefore, the Mayor-President’s deadline to veto Ordinance No. PO-039-2020 is the end of the day on Monday, September 14, 2020.

It is noteworthy that this computation of time is by “days,” not “hours.” At one point in my research and investigation of this matter, I was informed that the argument had been made that the Mayor-President’s veto of Ordinance No. PO-039-2020 must be returned by the same *hour* of the tenth day that it was presented to him. That argument is unsupported either by the language of the Charter or the general principles of Louisiana law discussed above.

If the Charter had intended that the Mayor-President’s veto be returned by the same hour of the tenth day that it was presented to him, the Charter could have said so. Instead, the Charter merely uses the generic term “days.” In such case, as above explained, Louisiana law instructs that the Mayor-President has “until the end of” (La. Code. Civ. Proc. Art. 5059(A) or “upon the expiration of” (La. Civ. Code Art. 3454) the last day. Therefore, in this situation, the Mayor-President technically has until 11:59:59 PM on Monday, September 14, 2020, to carry out the procedures necessary to veto Ordinance No. PO-039-2020.

s/Michael D. Hebert _____
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