

## Jason Pugh

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**From:** Charlie McVea [cmcvea@dwwattorneys.com]  
**Sent:** Thursday, December 12, 2013 11:06 AM  
**To:** jpugh@gautier-ms.gov  
**Cc:** Samantha Abell; Celeste Laws  
**Subject:** RE: legal sufficiency

Approved.

Charlie

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**From:** Jason Pugh [<mailto:jpugh@gautier-ms.gov>]  
**Sent:** Thursday, December 12, 2013 10:58 AM  
**To:** Charlie McVea  
**Cc:** 'Samantha Abell'  
**Subject:** legal sufficiency

Charlie,

The attached is going on the agenda for Tuesday night in regards to the Holiday pay. Can you approve for legal sufficiency as per our procedure?

Thanks,

### Jason D. Pugh

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**CITY OF GAUTIER  
MEMORANDUM**

**To:** Samantha Abell, City Manager  
**From:** Jason Pugh, Human Resources Director  
**Date:** 12/12/13  
**Subject:** Revision to Holiday Pay Policy

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**REQUEST**

Approval of a revised holiday pay policy to authorize eight (8) hours of holiday pay for firefighters.

This policy change shall be effective starting with the pay period beginning 12/14/13.

**BACKGROUND:**

On December 20, 2011, the Gautier City Council approved a change to the way holidays are paid to police officers (Order No. 220 2011) by giving all police department shift employees eight (8) hours of holiday pay for each holiday whether they worked the holiday or not. Firefighters were not affected by this change and were paid according to their union contract.

**DISCUSSION:**

Mississippi Code Ann. (21-17-5(3)) declares that "the governing authority of any municipality shall enact leave policies to ensure that a public safety employee is paid or granted compensatory time for the same number of holidays for which any other municipal employee is paid."

In order to ensure fair and equitable treatment for all employees the City of Gautier should revise the holiday policy as attached to include eight (8) hours of holiday pay for all fire department shift employees whether they work the holiday or not. The policy revision will henceforth include all employees.

**RECOMMENDATION:**

The change has been reviewed and approved as legally sufficient by the City Attorney. The City Manager recommends approval of an order to authorize a revision to the holiday policy to pay eight (8) hours of holiday pay to firefighters for all legal holidays.

City Council may

- 1) authorize the proposed Holiday policy as presented;
- 2) authorize the proposed Holiday policy with changes; or
- 3) disapprove the Holiday policy as presented.

**ATTACHMENT(S):**

Revised Holiday Policy (Strike-Thru (old)/ Underline (new))  
Miss. Code Ann. 21-17-5

**SECTION 9. Holidays.**

The City celebrates the following holidays off with pay for probationary and regular full-time employees. These holidays, or the dates when they occur or are observed, may change by proclamation of the Governor or the City Council or federal, state, or local law and such change(s) govern and override the listings contained in this employee handbook.

NEW YEAR'S DAY .....	January 1
MARTIN LUTHER KING, JR. ....	3rd Monday of January
PRESIDENT'S DAY .....	3rd Monday of February
GOOD FRIDAY .....	Friday before Easter
MEMORIAL DAY .....	Last Monday of May
INDEPENDENCE DAY .....	July 4
LABOR DAY .....	1st Monday of September
VETERAN'S DAY .....	November 11
THANKSGIVING DAY .....	4th Thursday of November
CHRISTMAS DAY .....	December 25

~~These holidays, or the dates when they occur or are observed, may change by proclamation of the Governor or the City Council or federal, state, or local law and such change(s) govern and override the listings contained in this employee handbook.~~ Holidays are observed from 12:00 a.m. (midnight) the eve of the holiday to 12:00 a.m. (midnight) the day of the holiday. Non-Public Safety employees will normally not be required to work on a day designated as a holiday and will receive their normal pay. Non-Public Safety employees who are required to work on a day designated as a holiday will receive straight time for all hours actually worked on the holiday, in addition to their regular pay.

The City compensates holiday pay for all employees as follows:

- 1) All employees who normally work a 40 hour week shall have the above listed days off with no reduction in pay. Any 40 hour per week employee who is required to work on one of the days listed above shall receive straight time pay for each hour actually worked in addition to their regular pay.
- 2) *Police Department* employees who normally work shifts (168 hours in a 28 day cycle) shall receive eight (8) hours straight time pay in addition to their normal pay for each of the days set out above.
- 3) *Fire Department* personnel who normally work shifts (216 hours in a 28 day cycle) shall be paid ~~Time and One half for each hour they work on each of the days set out above per the terms of their contract. Order No. 220-2011 Approved on December 20, 2011 (Pending Negotiation)~~ receive eight (8) hours straight time pay in addition to their normal pay for each of the days set out above.

When a holiday falls within an eligible employee's approved annual or medical leave period, the holiday shall not be counted as a leave day in computing the amount of leave deducted. An employee who is away from work and not in a paid leave status the day immediately preceding or following a holiday will not receive any pay for the holiday.

## MISSISSIPPI CODE of 1972

\*\*\* Current through the 2013 Regular Session and 1st and 2nd Extraordinary Sessions \*\*\*

TITLE 21. MUNICIPALITIES  
CHAPTER 17. GENERAL POWERS

Miss. Code Ann. § 21-17-5 (2013)

## § 21-17-5. Powers of governing authorities

(1) The governing authorities of every municipality of this state shall have the care, management and control of the municipal affairs and its property and finances. In addition to those powers granted by specific provisions of general law, the governing authorities of municipalities shall have the power to adopt any orders, resolutions or ordinances with respect to such municipal affairs, property and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi, and shall likewise have the power to alter, modify and repeal such orders, resolutions or ordinances. Except as otherwise provided in subsection (2) of this section, the powers granted to governing authorities of municipalities in this section are complete without the existence of or reference to any specific authority granted in any other statute or law of the State of Mississippi. Unless otherwise provided by law, before entering upon the duties of their respective offices, the aldermen or councilmen of every municipality of this state shall give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty equal to five percent (5%) of the sum of all the municipal taxes shown by the assessment rolls and the levies to have been collectible in the municipality for the year immediately preceding the commencement of the term of office of said alderman or councilman; however, such bond shall not exceed One Hundred Thousand Dollars (\$ 100,000.00). For all municipalities with a population more than two thousand (2,000) according to the latest federal decennial census, the amount of the bond shall not be less than Fifty Thousand Dollars (\$ 50,000.00). Any taxpayer of the municipality may sue on such bond for the use of the municipality, and such taxpayer shall be liable for all costs in case his suit shall fail. No member of the city council or board of aldermen shall be surety for any other such member.

(2) Unless such actions are specifically authorized by another statute or law of the State of Mississippi, this section shall not authorize the governing authorities of municipalities to (a) levy taxes of any kind or increase the levy of any authorized tax, (b) issue bonds of any kind, (c) change the requirements, practices or procedures for municipal elections or establish any new elective office, (d) change the procedure for annexation of additional territory into the municipal boundaries, (e) change the structure or form of the municipal government, (f) permit the sale, manufacture, distribution, possession or transportation of alcoholic beverages, (g) grant any donation, or (h) without prior legislative approval, regulate, directly or indirectly, the amount of rent charged for leasing private residential property in which the municipality does not have a property interest.

(3) Nothing in this or any other section shall be construed so as to prevent any municipal governing authority from paying any municipal employee not to exceed double his ordinary rate of pay or awarding any municipal employee not to exceed double his ordinary rate of

compensatory time for work performed in his capacity as a municipal employee on legal holidays. The governing authority of any municipality shall enact leave policies to ensure that a public safety employee is paid or granted compensatory time for the same number of holidays for which any other municipal employee is paid.

(4) The governing authority of any municipality, in its discretion, may expend funds to provide for training and education of newly elected or appointed municipal officials before the beginning of the term of office or employment of such officials. Any expenses incurred for such purposes may be allowed only upon prior approval of the governing authority. Any payments or reimbursements made under the provisions of this subsection may be paid only after presentation to and approval by the governing authority of the municipality.

**HISTORY:** SOURCES: Codes, 1892, § 2925; 1906, § 3316; Hemingway's 1917, § 5813; 1930, § 2393; 1942, § 3374-114; Laws, 1950, ch. 491, § 114; Laws, 1985, ch. 487; Laws, 1989, ch. 526, § 1; Laws, 1990, ch. 418, § 1; Laws, 1992, ch. 430 § 1; Laws, 1998, ch. 315, § 1; Laws, 2000, ch. 363, § 2; Laws, 2000, ch. 515, § 2; Laws, 2006, ch. 419, § 1; Laws, 2007, ch. 546, § 2; Laws, 2009, ch. 467, § 11, eff from and after July 1, 2009.

View

← 1 of 1 →



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**Miss. Code Ann. § 21-17-5** (Copy w/ Cite)

Pages: 2



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