

Opinion No. 2011-006

April 19, 2011

The Honorable Jerry Taylor  
State Senator  
6203 Ridgewood Drive  
Pine Bluff, Arkansas 71603-7738

Dear Senator Taylor:

You have requested my opinion on the following questions concerning civil service rules:

1. Does the city have the authority to allow assistance chief positions to be appointed by the Mayor or the City Council without going through civil service?
2. Can the city pick which positions are subject to civil service?
3. Can any positions in the police and fire department be established outside civil service rules, if civil service rules are in effect in a city?
4. If they can, what positions can be outside the civil rules?
5. Would a person have to serve a year in the rank to be put into the higher position?

**RESPONSE**

I must decline to render an opinion in response to your questions because they relate to a case currently pending before a circuit court in Jefferson County: *Southern States Police Benevolent Association, Inc. et al. v. City of Pine Bluff, Arkansas*, No. CV-2007-354-2 (Jefferson Co. Cir., 2nd Div., on remand from

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Arkansas Supreme Court, 373 Ark. 573, 285 S.W.3d 217 (2008)). In recognition of the judiciary's independent constitutional role, it has long been the policy of the Attorney General, as an office in the executive branch of government, to refrain from rendering opinions on matters that are pending before the courts for determination.<sup>1</sup> Accordingly, I must respectfully decline to issue an opinion in this instance. Any opinion from my office would be executive comment on questions properly before a court.

I regret that I could not be of assistance in this matter.

Deputy Attorney General Elisabeth A. Walker prepared the foregoing opinion, which I hereby approve.

Sincerely,

DUSTIN McDANIEL  
Attorney General

DM:EAW/cyh

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<sup>1</sup> See, e.g., Op. Att'y Gen. 2008-034 (and opinions cited therein)..