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What should our town know about hiring seasonal workers?

Many municipalities choose to hire workers to assist with warm-weather operations such as landscaping and running recreational programs. Although these individuals are bona fide municipal employees, they are not subject to the same state and federal laws regarding wages and overtime. For instance, employees in municipal recreational programs operating for fewer than seven months of the calendar year are exempt from the overtime provisions of federal and state law. The applicable laws are Section 13(a)(3) of the federal Fair Labor Standards Act, and Title 21, Section 384(b)(2)(A) of Vermont Statutes Annotated.

The legal scheme in regard to minimum wage is slightly different. A seasonal recreational employee – which 21 V.S.A. § 2002 defines as one who works for an employer for 20 or fewer weeks in a calendar year and who works in a job scheduled to last 20 weeks or fewer – is exempt from federal minimum wage requirements but not from state minimum wage requirements. In other words, municipal employees performing recreational functions must be paid the state minimum wage, even though they are only employed seasonally. However, there is an exception to the law for students who work during all or any part of the school year or during regular vacation periods. Those student employees are exempt from state minimum wage requirements under Title 21, Section 383(2)(I) of Vermont Statutes Annotated.

The current edition of VLCT’s Handbook for Vermont Selectboards states that “employees in municipal recreational programs operating for fewer than seven months of the calendar year” must receive Vermont’s minimum wage. While this is still generally the case, it does not take into account the statutory exception for students, which is cited above. According to the Wage and Hour Division of the Vermont Department of Labor, a municipality may pay its student employees anywhere on the federal pay scale from a training wage of \$4.25 per hour to the federal minimum wage of \$7.25 per hour for a maximum of 90 days.

State law limits the hours that minors may work and the functions they may perform. Those restrictions are listed on the Department of Labor’s website at <http://labor.vermont.gov/wordpress/wp-content/uploads//WH-30-Information-for-Employer-Child-Labor-Law.pdf>.

*Sarah Jarvis, Staff Attorney II
VLCT Municipal Assistance Center*