

June 1, 2000
OPINION NUMBER 00-187

45-C Environmental - Solid Waste
90-A-2 Public Funds

Article VII, §14 of Louisiana Constitution

A Solid Waste Commission may not expend public funds to pay the rental fee for commercial dumpsters placed on commercial businesses.

Mr. James P. Doherty, Jr.
Andrus and Doherty
117 N. Market Street
P.O. Drawer "B"
Opelousas, LA 70571

Dear Mr. Doherty:

On behalf of the St. Landry Parish Solid Waste Disposal District (the "District"), you requested the opinion of this office concerning whether the District could pay a portion of dumpster service for commercial establishments.

You advised that the District was created by Act No. 289 of the 1980 Regular Session of the Legislature. The powers and duties of the Commission include representing the public interest in providing solid waste collection and disposal for the District and providing for the establishment, operation and maintenance of a parish wide solid waste disposal system. The qualified electors of the District authorized the imposition of a sales tax dedicated for the purposes of paying the cost of construction, acquiring, improving, maintaining and operating a solid waste collection and disposal facility for the parish. Subsequent to the passage and the collection of the tax, the district entered into a collection contract with Waste Management, Inc. To collect non-hazardous, non-toxic solid waste throughout the District. The Commission purchased land and constructed a landfill in order to dispose of the amounts collected.

Residences within the District are not charged any additional fees for the collection of household solid waste. The commission does, however, require commercial establishments, as well as some governmental entities to pay for the cost of disposal bins or containers or at least a portion of the cost. Waste Management charges a monthly rental fee for the disposal containers that are located at these establishments. The Commission pays 20% of the monthly cost out of its tax revenues to Waste Management as a subsidy for the costs to non-residential users.

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We call your attention to Op.Atty.Gen. 96-115, a copy of which is enclosed, wherein this office considered a similar question, namely whether a police jury could pay a portion of the monthly rental fee for commercial dumpsters imposed by a private company which collects garbage and trash pursuant to a contract with the police jury. After a detailed analysis of Article VII, Section 14 of the Louisiana Constitution, the opinion concluded that there was no valid legal provision which would authorize the police jury to assume the financial obligation to fund the rental fees.

Likewise, the undersigned was unable to find a legal provision providing a valid legal duty or obligation which would authorize the Commission to pay a portion of dumpster service for commercial establishments. It is therefore the opinion of this office that Article VII, Section 14 of the Louisiana Constitution of 1974 prohibits the expenditure of Commission funds, from whatever source, for the purpose of paying the rental fees for commercial dumpsters utilized by private businesses.

Trusting this opinion adequately responds to your request, we remain

Yours very truly,

RICHARD P. IEYOUB
Attorney General

BY:

MARTHA S. HESS
Assistant Attorney General

RPI/MSH
enclosure

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Syllabus

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Date Received:

Date Released: June 1, 2000

Martha S. Hess
Assistant Attorney General