

October 24, 2000
OPINION 00-350

Mayor Randy Roach
City of Lake Charles
P. O. Box 900
Lake Charles, LA 70602-0900

Re: North Lake Charles Economic Development District

Dear Mayor Roach:

Your request for an opinion regarding the North Lake Charles Economic Development District has been forwarded to me for response. In your request, you seek an opinion on three issues:

- “Is it mandatory or permissive for the members of the Lake Charles governing authority who represent the North Lake Charles Economic Development District to appoint members to the district?”
- “What is the appropriate procedure for the removal of members of the North Lake Charles Economic Development District by the members of the Lake Charles governing authority who represent the district?”
- “What constitutes ‘good cause’ for removal of a member of the North Lake Charles Economic Development District?”

As you have outlined in your opinion request, the North Lake Charles Economic Development District (District) is established in *LSA-R.S. 33:130.551, et seq.* “The district is established for the primary purpose of promoting, encouraging, and participating in infrastructure improvements to stimulate the economy through commerce, industry, and research and for the utilization and development of natural, physical, and human resources of the area by providing job opportunities.” *LSA-R.S. 33:130.551.*

The Board of Commissioners of the District is comprised of eleven members plus ex officio (voting) members consisting of each member of the state legislature whose legislative district includes any part of the District. *LSA-R.S. 33:130.552.* This statute requires various individuals or organizations to appoint members of the District’s Board of Commissioners.

In response to your first request, *LSA-R.S. 33:130.552(A)(1)(e)* reads: "The member or members of the Lake Charles governing authority who represent the district shall appoint one member." (Emphasis added).

LSA-R.S. 1:3 states: "Words and phrases shall be read with their context and shall be construed according to the common and approved usage of the language. Technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in the law, shall be construed and understood according to such peculiar and appropriate meaning. The word "shall" is mandatory and the word "may" is permissive." (Emphasis added).

It is mandatory that the member or members of the Lake Charles governing authority appoint a member to the District.

In your second request, you ask the appropriate procedure for the Lake Charles governing authority (who appointed the member of the Board of Commissioners for the District) to remove that member.

Again, *LSA-R.S. 33:130.552* is the controlling statute. *Section (A)(1)(a) through (j)* names the different entities with the authority to appoint a member of the Board of Commissioners for the District. *Section (A)(2)* provides for terms of office of two, three, or four years for the members, as determined by lot. *Section (A)(3)* provides that vacancies on the board "[shall] be filled in the same manner as the original appointment for the remainder of any unexpired term." *Section (B)* provides that "Members shall be compensated and may be removed for good cause in accordance with the bylaws of the district." The last section, *Section (C)*, requires: the selection of officers of the board, that meetings be held, a quorum be required, "[all] as provided in the bylaws of the district."

The statute provides for a specified term of office (to be determined by lot) and the removal of a member with good cause in accordance with the bylaws of the district. Once the member is appointed for the term of office, the member can only be removed in accordance with the bylaws of the District. There is no statutory authority, contained in *LSA-R.S. 33:130.552*, for the Lake Charles governing authority to remove the member that it has appointed to the Board of Commissioners for the District before the expiration of the term.

The Louisiana Constitution provides that even the Governor cannot remove a person he has appointed for a term: "Removal Power. The governor may remove from office a person he appoints, except a person appointed for a term fixed by this constitution or by law." *La. Const. Art. IV, Sect. 5(l)*.

In your last request, you ask what constitutes "good cause" for removal of a member of the District. The Louisiana Constitution provides for the removal of a "public officer" for conviction of a felony, malfeasance, or gross misconduct while in office. I have enclosed three prior Attorney General's Opinions (Opinion No. 2000-263; 98-20; and 97-0351) which discuss removal of public officers.

In the present case, the removal of a member of the Board of Commissioners on grounds other than conviction of a felony, malfeasance, or gross misconduct must be carried out "[in] accordance with the bylaws of the district." *LSA-R.S. 33:130.552(B)*. The statute leaves it up to the Board to determine what constitutes "good cause" for removal.

If we can be of further assistance, please do not hesitate to call.

Yours very truly,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY: _____
THOMAS L. ENRIGHT, JR.
ASSISTANT ATTORNEY GENERAL

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Enclosures

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LSA-R.S. 1:3; LSA-R.S. 33:130.552; LSA-R.S. 33:130.552(B)

Deals with requirement to appoint, and authority to remove, with or without "good cause," a board member appointed for a term.

Mayor Randy Roach
City of Lake Charles
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Date Received:
Date Released: October 24, 2000

THOMAS L. ENRIGHT, JR.
ASSISTANT ATTORNEY GENERAL

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