

March 2, 2001
OPINION 01-39

Mr. James H. Jenkins, Jr.
Secretary, Dept. of Wildlife
& Fisheries
P.O. Box 98000
Baton Rouge, LA 70809-9000

Dear Mr. Jenkins:

This office is in receipt of your request for an opinion of the Attorney General in regard to court costs charged by clerks of court and sheriff's offices against the Department of Wildlife and Fisheries. You indicate the Department is required to execute upon and collect amounts owed as a result of civil administrative judgments issued in the Department's favor arising from wildlife violations, and you are concerned about costs charged in connection with issuance of writs and execution of these judgments. You state it is your belief that a department of state government is exempt from payment of these fees, and ask for the opinion of this office in this matter.

R.S. 13:4521 provides in pertinent part that "neither the state, nor any parish, municipality, nor other political subdivision, public board, or commission, nor any officer or employee of any such governmental entity when acting within the scope and authority of such employment or when discharging his official duties shall be required to pay court costs in any judicial proceeding instituted or prosecuted by or against the state, or any such parish, municipality, or other political subdivision, board or commission, in any court of this state or any municipality of this state". This office has concluded in accordance with this statute that neither the state nor political subdivisions shall be required to pay court costs prior to an adverse judgment in "any" judicial proceeding instituted by or against the state or a political subdivision, Atty. Gen. Op. 94-280. However, this office recognized that the exemption provided in R.S. 13:4521 applies only to open "judicial proceedings".

We would conclude that the court costs charged by clerks of court and sheriff's offices to issue writs and execute upon judgments obtained by the Department as a result of civil administrative judgments issued in favor of the Department would be an open judicial proceeding, and the statute establishes an exemption relative to "any" judicial proceeding. Inasmuch as this office stated in Atty. Gen. Op. 88-86 that the municipality who files a suit

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cannot be held to pay the court costs associated with the service of civil papers by a sheriff, it would follow such costs would not be applicable for execution of the judgment. Moreover, this office has noted in Atty. Gen. Op. 98-36 that while R.S. 13:4521 does not specifically mention housing authorities as exempt from costs, they are included within the definition of "governmental unit", as would be the Department of Wildlife and Fisheries.

Accordingly, the payment of costs by the Department would not be required for execution of judgments issued in favor of the Department arising from wildlife violations.

We hope this sufficiently answers your inquiry, but if we can be of further assistance, do not hesitate to contact us.

Sincerely yours,

RICHARD P. IEYOUB
Attorney General

By: _____
BARBARA B. RUTLEDGE
Assistant Attorney General

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46-A Fees & Costs
R.S. 13:4521

The Department of Wildlife &
Fisheries is not required to
pay costs for executions of
judgments issued in favor of
the Department arising from
wildlife violations.

Mr. James H. Jenkins, Jr.
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BARBARA B. RUTLEDGE
Assistant Attorney General