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22-1 DRAINAGE & DRAINAGE DISTRICTS

LA-R.S. 38:1794

If there is a request to increase compensation to the Drainage District Board of Commissioners, either in part or up to the maximum, it must be approved by a two-thirds vote of the members of the board after a public hearing, and there must be two advertisements in the official journal of the drainage district within a fifteen day period prior to the meeting

Dear Mr. Honeycutt:

Please be advised that the office of the Attorney General is in receipt of your opinion request. In your request, you specifically asked:

Whether Louisiana R.S. 38:1794 limits the per diem to Board members of Gravity Drainage District #1 to \$60.00 per meeting or does the statute permit an increase in compensation to the Board of Commissioners after being approved by two-thirds (2/3) vote from the members of the Board after a public hearing, which has been advertised and in the official journal of the Gravity Drainage District on a least two separate occasions within a period of fifteen (15) days proceeding the meeting at which the vote is taken?

Louisiana R.S. 38:1794 states in pertinent part:

B. (2) Members of the board of commissioners are authorized to receive compensation of not more than one hundred dollars per day as determined by the board, for each day such member shall be in actual attendance upon the regular or special meeting of the board, not to exceed thirty-six days in one year, and may be reimbursed any expenses actually incurred in performing the duties imposed upon him by virtue of his appointment. Any increase in compensation or increase or reimbursement of any kind to members of the board of commissioners must be approved by a two-thirds vote of the members of the board after public hearing, which has been advertised in the official journal of the drainage district on at least two separate occasions within a period of fifteen days preceding the meeting at which the vote is taken.

This statute previously allowed for a sixty-dollar limit on the amount of compensation to be received by each board member for each day in attendance. However, in the 2001 Regular Session of the Louisiana Legislature, Act Number 356 extended that limit to allow for a limit of one hundred dollars.

Louisiana R.S. 38:1794 further provides a process to be followed in the event that there is a request for an, "increase in compensation or increase or reimbursement of any kind" to all of the board members. Therefore, if there is a request to increase

compensation, either in part or to the maximum, it must be approved by a two-thirds vote of the members of the board after public hearing. There must be two advertisements for this hearing in the official journal of the drainage district, all of which must be within a period of fifteen days prior to the meeting. We have concerns as to whether it is ethical for the board to increase its own per diem, rather than doing so for future enactment. Therefore, we further recommend that you seek an ethics opinion from the Louisiana Board of Ethics, 8401 United Plaza; Suite 200, B.R., LA 70809-7017.

I hope this opinion sufficiently answers your questions. If you have any further questions, please do not hesitate to contact our office.

Yours very truly,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

A handwritten signature in black ink, appearing to read 'Angie Rogers Laplace', written over a horizontal line.

ANGIE ROGERS LAPLACE
Assistant Attorney General

RPI/ARL/VC;mjb