



RICHARD P. IEYOUB
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
BATON ROUGE
70804-9005

One American Place
301 Main Street, Suite 600
P.O. Box 94005
TEL : (225) 342-7013
FAX: (225) 342-2090

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Opinion Number 02-0403

Mr. Mark E. Falcon, Attorney for
Baton Rouge Housing Authority
Avant & Falcon
429 Government Street
Baton Rouge, LA 70802

90-A-1 Public Finance & Contracts
92-A-2-(g) Retirement – State Employees
Article 7, Section 14 of Louisiana Constitution
La. R.S. 42:871, La. R.S. 42:1301

Baton Rouge Housing Authority may pay 100% of retirement contributions on behalf of its employees for a supplemental retirement plan.

Dear Mr. Falcon:

As outlined in your request, the Baton Rouge Housing Authority is considering paying 100% of retirement contributions on behalf of its employees to a private retirement fund that will in essence be a supplemental retirement plan. The employees of the Baton Rouge Housing Authority are classified civil servants of the state; however, they are not members of the Louisiana State Employees' Retirement System. Rather, the employees' primary retirement plan is social security. The Authority would like to pay 100% of the retirement contributions as a means to recruit and retain employees. It questions if it may do so without violating Louisiana law.

In short, we believe the Authority may do so. As a political subdivision of the state, the Authority may contribute public funds to pension and insurance programs for the benefit of its employees.¹ Additionally, political subdivisions are authorized by statute to purchase annuities, life insurance or mutual funds, as part of a group plan, that qualify for deferred federal taxation benefits as provided by the Internal Revenue Code.² Public employees may also participate in the Louisiana Public Employees Deferred Compensation Plan.³ Typically, a supplemental retirement plan involves contributions by the employee with matching contributions by the employer. The Authority's employees have not participated in the supplemental retirement plan because they are not financially able to do so.

Clearly, Louisiana law authorizes the use of public funds for pension and insurance programs for the benefit of public employees. We are unaware of any law that prohibits the Authority from paying all of the contributions to a supplemental retirement plan. We do caution, however, that any contributions made by the Authority for an employee whose salary is fixed by law or otherwise cannot cause the employee's total compensation to exceed the fixed salary. We also recommend that, prior to the

¹ Article 7, Section 14 of the Louisiana Constitution

² La. R.S. 42:871

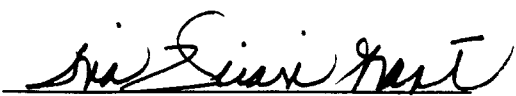
³ La. R.S. 42:1301

implementation of any plan, the Authority review it with the Internal Revenue Service and the Department of the Treasury, Division of Social Security. We understand also that the Authority will review the plan with the Civil Service Commission.

With kindest regards,

Yours very truly,

RICHARD P. IEYOUB
Attorney General

BY: 
TINA VICARI GRANT
Assistant Attorney General

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