



RICHARD P. LEYBOU
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
BATON ROUGE
70804-9095

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OPINION NUMBER 03-0023

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A.R. "Buddy" Hodgkins, Jr.
Assistant Executive Director
Louisiana Sheriffs' Association
1175 Nicholson Drive
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16 - CRIMINAL LAW – Crimes & Offenses
107 - SHERIFFS – Constables & Marshals, including Ex-Officio
Tax Collectors, rights, powers & duties, in general
Political payroll padding by a sheriff is a criminal violation under R.S.
14:139.1, except when an increase in payroll is due to the completion
of a new or expansion of an existing prison facility. A halfway house to
house inmates fits this exception.

Dear Mr. Hodgkins:

Your request for an Attorney General's opinion has been forwarded to me for research and reply. Your letter states that under R.S. 14:139.1, a sheriff is limited in the number of new employees he can hire and in how much he can increase his payroll or other operating expenses 6 months before a gubernatorial election and during the time period between the election and the first day of July following election. You also point out the exception in paragraph C of this law with regard to the completion of new or expansion of an existing prison facility. Thus, you seek our opinion as to whether a sheriff who is in the process of opening a halfway house that will not be finished before this restrictive period begins would be in violation of R.S. 14:139.1 or exempt under paragraph C?

R.S. 14:139.1 is a criminal statute which provides criminal penalties for political payroll padding by a sheriff six months preceding a gubernatorial election and the time between the gubernatorial election and the first day of July following the election. Paragraph (C) provides an exemption from criminal wrong doing where an increase in a sheriff's payroll is due to the completion of a new or expanded existing prison facility, as follows:

- C. The provisions of this Section shall not apply when the increases or decreases are necessitated by flood, invasion by common enemy, or other public emergency. In addition, the provisions of this Section shall not apply to any increase based upon the utilization of additional revenue from a tax district election or to an increase necessitated by the completion of a new or expansion of an existing prison facility. (Emphasis added).

It is our opinion that the completion of a halfway house by a sheriff, which is obviously for the physical custody of inmates, fits within the meaning of the exception to R.S. 14:139.1, cited above, thus exempting the sheriff from criminal wrong doing under this law.

A.R. "Buddy" Hodgkins, Jr.
Opinion Number 03-0023
Page -2-

If our office can be of further assistance, please advise.

Yours very truly,

RICHARD P. IEYOUB
ATTORNEY GENERAL



ANGIE ROGERS LAPLACE
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