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SEP 26 2003
Opinion Number 03-0330

Mr. Lynn A. DeRouen, Attorney at Law
Iberia Parish Clerk of Court
103 East Main Street
New Iberia, LA 70560

90-A-2 Public Funds – Loan, Pledge or Grants
Article 7, Section 14 (A) of the Louisiana Constitution

Clerk of Court employees may receive a salary supplement if it is in the form of a salary increase for future services.

Dear Mr. DeRouen:

You question if the Iberia Parish Clerk of Court may give salary supplements to his employees. The supplement, however, would not necessarily be a permanent pay raise. Rather, it would depend upon the availability of funds each year.

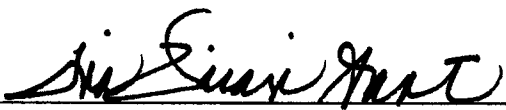
It is our opinion that the clerk may do so. Pursuant to Article 7, Section 14 of the Louisiana Constitution, the clerk cannot loan, pledge, or donate funds to anyone. Our office has consistently opined that the payment of a bonus or any other gratuitous, unearned payment to public employees is prohibited by the constitution.¹ On the contrary, the constitution does not prohibit an earned increase in compensation. Thus, the payment of additional compensation to public employees must be in the form of a salary increase for future services. It may not be given as extra compensation for past services.

We recommend that the supplement be provided for in each employee's compensation package. We also recommend that the compensation agreement specifically provide that the supplement is conditioned upon the availability of funds.

We trust that this adequately responds to your request. If you have any questions or comments, please do not hesitate to contact our office.

Yours very truly,

RICHARD P. IEYOUB
Attorney General

BY: 
TINA VICARI GRANT
Assistant Attorney General

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¹ Attorney General Opinion No. 00-125