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ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
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JAN 15 2004
Opinion Number 03-0459

Honorable Bert F. Babers, III
Police Jury President
Parish of West Feliciana
P. O. Box 1921
St. Francisville, Louisiana 70775

150 – TAXATION: Disposition and Proceeds of
Special Tax

Ad valorem tax proceeds dedicated to public
health facilities and social services cannot be
utilized for solid waste disposal and collection.

Dear Mr. Babers:

On behalf of the Police Jury of the Parish of West Feliciana, you have requested our opinion regarding the use of the proceeds of a 1.5 mill ad valorem tax currently being levied by the Parish of West Feliciana. The proposition approved by the Parish voters provides that the tax is levied "for the purpose of acquiring, constructing, improving, maintaining, supporting and/or operating public health facilities and other social services in the Parish". Specifically, this office has been asked to address whether solid waste collection and disposal can be considered to be "social services", in order that the proceeds derived from the tax can be utilized by the Parish for solid waste collection.

This office has long been of the opinion that ad valorem tax proceeds can only be used in the manner set forth in the proposition approved by the electorate. Attorney General's Opinion Nos. 98-369, 98-287, 97-434, 96-494, 88-601 and 74-984. We note that RS 39:704 pertinently provides:

"The proceeds of any special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied."

Additionally, the jurisprudence of this state provides that special tax authorizations must be strictly construed. *Hemler v. Richland Parish School Board*, 76 So. 585 (La. 1917); *Watkins v. Ouachita Parish School Board*, 136 So. 591 (La. 1931); *Hodnett v. Monroe City School Board*, 277 So.2d 598 (La. App. 2nd Cir. 1972) and *Brock V. St. James Parish Council*, 407 So.2d 1265 (La. App. 4th Cir. 1981), writ denied. In *Hemler*, at pg. 586, the Supreme Court stated:

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"It is a familiar principle that laws authorizing taxation ... are in derogation of common rights; and therefore are to be strictly construed...this is especially true of laws authorizing special taxes."

It is with these principles in mind that we address your question.

Respectfully, we must advise that we are of the opinion that the words "social services" cannot be considered as including solid waste collection and disposal. It is our further opinion that a proposition levied "for the purpose of acquiring, constructing, improving, maintaining, supporting and/or operating public health facilities and other social services in the Parish" cannot be considered as contemplating the use of the millage proceeds for solid waste collection and disposal.

Clearly, the collection and disposal of solid waste is an important service provided by the parish to the citizens of West Feliciana; it cannot however, in our opinion, be considered to be a 'social service'. The term "social services" implies the provision of services designed to alleviate social problems or conditions such as social inequality, poverty, racism, child abuse, drug abuse, and other family and societal problems. According to the Merriam-Webster Dictionary, at www.m-w.com, "social service is defined to be "an activity to promote social well-being; *specifically*: organized philanthropic assistance of the sick, destitute, or unfortunate: welfare work". According to the Webster's II New Collegiate Dictionary, "social service" is defined as "1. Organized efforts to advance human welfare: social work. 2. often social services. Welfare services, as free school lunches, provided by a government for its needy citizens." We have consulted The Social Work Dictionary, 3rd Edition, by Robert L. Barker, which defines the term "social services" as:

"The activities of social workers and others in promoting health and well-being of people and in helping people become more self-sufficient; preventing dependency; strengthening family relationships; and restoring individuals, families, groups, or communities to successful social functioning. Specific kinds of social services include helping people obtain adequate financial resources for their needs, evaluating the capabilities of people to care for children or other dependents, counseling and psychotherapy, referral and channeling, mediation, advocating for social causes, informing organizations of their obligations to individuals, facilitating health care provisions, and linking clients to resources."

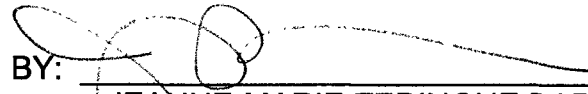
Please be advised that although it is our opinion that the proceeds of the tax dedicated to public health facilities and other social services cannot be utilized for solid waste disposal and collection, the District could, if it so desires, ask its voters to rededicate the tax proceeds for solid waste at a future election. Please note that a rededication election would have to be approved by the State Bond Commission in accordance with La. R.S. 39:1410.61.

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We trust the foregoing to be of assistance. We hope that you will not hesitate to contact this office if we can be of assistance in other areas of the law.

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY: 
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