

February 20, 2004
OPINION NUMBER 04-0007

10 – CLERKS OF COURT- Compensation & Fees; Powers and Duties;
General
61 – LAWS - General
92-A-2-(b) – RETIREMENT – Clerks of Court

Mr. Jon Gegenheimer, President
Board of Trustees
Louisiana Clerks of Court Association
11745 Bricksome Ave. – Suite B-1
Baton Rouge, LA 70816

Statutes / Attorney General Opinions referenced above:

La.R.S. 1:3; La.R.S. 11:1503(10), La.R.S. 11:1511

The legislature has mandated clerks of each of the district courts to become and remain members of the Clerks' of Court Retirement and Relief Fund during such time that he/she serves in that capacity.

Dear Mr. Gegenheimer:

This office is in receipt of your recent opinion request submitted on behalf of the Clerks of Court Retirement and Relief Fund. Particularly, your inquiry is whether the newly elected Clerk of the Criminal District Court in Orleans Parish is required to become a member of the Retirement and Relief Fund pursuant to La.R.S. 11:1511.

La.R.S. 11:1511 provides as follows:

The clerk of the supreme court, each of the courts of appeal, each of the district courts, and each of the city and traffic courts in cities having a population in excess of four hundred thousand, and the employees of such clerks, whether full-time or part-time, and the employees of the Louisiana Clerks of Court Association, the Louisiana Clerks' of Court Retirement and Relief Fund, and the Louisiana Clerks of Court Insurance Fund, shall become and be a member of the system during service as such.

La.R.S. 11:1503(10) provides, in pertinent part, that "system" means the Clerks' of Court Retirement and Relief Fund. Additionally, La.R.S. 1:3 states that the word "shall" is mandatory and the word "may" is permissive.

Based on the foregoing, it appears that the legislature has mandated clerks of each of the district courts to become and remain members of the Clerks' of Court Retirement and Relief Fund during such time that he/she serves in that capacity. Therefore, it is the opinion of this office that the newly elected Clerk of the Criminal District Court in Orleans Parish is required to effect membership as is contemplated by La.R.S. 11:1511.

I trust that this adequately responds to your inquiry. Should you have any further questions, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By: _____
CHARLES H. BRAUD, JR.
Assistant Attorney General

CCF,Jr./CHB, Jr./dor

SYLLABUS
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CHARLES H. BRAUD, JR.
Assistant Attorney General