

August 8, 2005
OPINION NUMBER 05-0245

63 LEVEES, DRAINAGE DISTRICT & FLOOD
 CONTROL
La. R.S. 38:3304; La R.S. 38:308

Mr. Jay J. Harris
133 Aspen Square, Suite B
Denham Springs, Louisiana 70726

The Amite River Basin Drainage and Water Conservation District is not classified as either a levee district or a levee and drainage district; and, accordingly, La. R.S. 38:308 does not control the maximum amount of the per diem or the number of days per diem is allowed for members of the District. The per diem for members of the District is governed by La. R.S. 38:3304.

Dear Mr. Harris:

You requested an Attorney General's opinion on behalf of the Amite River Basin Drainage and Water Conservation District ("District") regarding the per diem paid to the members of the District. You question whether La. R.S. 38:308, adopted in 1985, supercedes La. R.S. 38:3304, adopted in 1984, concerning the issue of the per diem paid to the members of the District. It is your view that La. R.S. 38:308 governs the maximum dollar amount of the per diem and the maximum number of days per year the per diem is payable.

La. R.S. 38:308 is found in Chapter 4 of Title 38, and controls the maximum amount of the per diem and the number of days per diem is allowed for members of the board of commissioners of any levee district or levee and drainage district. The terms "levee district" and "levee and drainage district" are both defined in La. R.S. 38:281 as follows:

(6) "Levee district" means a political subdivision of this state organized for the purpose and charged with the duty of constructing and maintaining levees, and all other things incidental thereto within its territorial limits.

(7) "Levee and drainage district" means a political subdivision of this state organized for the purpose and charged with the duty of constructing and maintaining levees, drainage, and all other things incidental thereto within its territorial limits.

La. R.S. 38:3301-3309 dealing with the District is found in Chapter 16 of Title 38. It is the opinion of this office that the District is not classified as either a levee district or a levee and drainage district; and, accordingly, La. R.S. 38:308 does not control the maximum amount of the per diem or the number of days per diem is allowed for members of the District. In accord is Attorney General Opinion No. 98-351.

The per diem for members of the District is governed by La. R.S. 38:3304. The per diem is limited to a maximum of Sixty (\$60.00) Dollars per day during the time such member is in actual attendance upon the board of performing duties authorized by the board and shall be payable for a maximum of twenty-four days per year.

Trusting this adequately responds to your request, we remain

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY: _____
KENNETH L. ROCHE, III
Assistant Attorney General

CCF, JR/KLR, III/mjb

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Mr. Jay J. Harris
133 Aspen Square, Suite B
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Date Received:
Date Released: August 8, 2005

KENNETH L. ROCHE, III
ASSISTANT ATTORNEY GENERAL