

January 30, 2006
OPINION NUMBER 05-0363

92-B Public Funds – Loan, Pledge or Grants
La. Const. Art. VII, Sec. 26

Mr. E. A. Greer
Secretary, Morehouse Parish Police Jury
P.O. Box 509
Bastrop, Louisiana 71221-0509

Bastrop Area Fire Protection District No. 2's state revenue sharing funds should be placed in the Fire District's Fund, rather than the Parish General Fund.

Dear Mr. Greer:

You requested an Attorney General's opinion on behalf of the Morehouse Parish Police Jury ("Police Jury") regarding the Bastrop Area Fire Protection District No. 2's ("Fire District") state revenue sharing funds. You indicate that the Fire District is a component unit of the Police Jury. You question whether the Police Jury can place the Fire District's state revenue sharing funds into the Parish General Fund. You advised that you are requesting this opinion due to an audit finding in the Police Jury's 2004 audit. The audit finding, 2004-2 State Revenue Sharing and Other Funds (initially cited as of and for the year ended December 31, 2003), provided as follows:

2004-2 State Revenue Sharing and Other Funds (*initially cited as of and for the year ended December 31, 2003*)

Criteria: Pursuant to Attorney General's (sic) Opinion No. 90-113, state revenue sharing funds which have been distributed to a local tax recipient body constitute general funds of said tax body and should be deposited in the general treasury of the tax body receiving same, unless those revenue sharing funds have been pledged in accordance with the state's constitution.

Condition: State revenue sharing funds are received by the Jury on behalf of Ward Two Cemetery and Bastrop Fire District Two (component units). Those funds designated for Ward Two Cemetery and appropriately deposited into Ward Two Cemetery Fund while those funds designated for Bastrop Fire District Two are retained in the Jury's General Fund.

Also, the Jury deposited into the General Fund the 2001 and 2002 2% fire insurance rebates designated for Bastrop Fire District Two.

At its May 10, 2004 meeting, the Jury approved Bastrop Fire District Two's request to place a proposition for an increase in structure fees on the November ballot. Such an increase may have been avoided if the District had use of the designated funds.

Cause: The Jury approved at its December 11, 2000 meeting to transfer 2000 and 2001 state revenue sharing funds, originally deposited in the Bastrop Fire District Two Fund, to the General Fund. Thereafter, the Jury approved budgets for 2001, 2002, 2003, and 2004 that only appropriated state revenue sharing funds for the General and Ward Two Cemetery Funds.

Effect: The Jury's General Fund may, upon further legal interpretation, have to transfer to Bastrop Fire District Two the 2000 through 2004 state revenue sharing funds (totaling approximately \$181,000) and the 2001 and 2002 2% fire insurance rebate funds (totaling approximately \$40,000) designated for that fund.

Recommendation: We recommend that another Attorney General's opinion be requested concerning these matters.

Management's
Response and
Planned cor-
rective action: We concur in the finding and will request an additional opinion.

The audit finding referred to Attorney General Opinion No. 90-113, which addressed the question of whether state revenue sharing funds can be placed in the general fund of the police jury to be disbursed by the police jury along with other general fund revenues or whether state revenue sharing funds should be placed in specific, dedicated tax funds of the police jury. In that Opinion, this office opined that:

state revenue sharing funds which have been distributed to a local tax recipient body constitute general funds of said tax body and should be deposited in the general treasury of the tax body receiving same, unless

those state revenue sharing funds have been pledged in accordance with Art. VII, Section 26 (E) of the La. Constitution of 1974.

In accord are Attorney General Opinion Nos. 77-6 and 86-95. With respect to the Fire District's state revenue sharing funds, the Fire District is the tax recipient body. As such, it is the opinion of this office that those funds should be deposited into the Fire District's Fund, rather than the Parish General Fund.

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/jv

OPINION NUMBER 05-0363

92-B Public Funds – Loan, Pledge or Grants
La. Const. Art. VII, Sec. 26

Bastrop Area Fire Protection District No. 2's state revenue sharing funds should be placed in the Fire District's Fund, rather than the Parish General Fund.

Mr. E. A. Greer
Secretary, Morehouse Parish Police Jury
P.O. Box 509
Bastrop, Louisiana 71221-0509

Date Received:

Date Released: January 30, 2006

KENNETH L. ROCHE, III
ASSISTANT ATTORNEY GENERAL