

December 12, 2005
OPINION NUMBER 05-0388

Mr. Paul G. Moresi, III
Assistant District Attorney
15th Judicial District
Courthouse Building
Abbeville, LA 70511-1140

88 – Police Juries
90-A-2 Public Funds – Loan, Pledge or Grants
Art. VII, Section 14(A) of La. Const.

The Police Jury may pay its employees for the five days of work missed due to the effects of Hurricane Rita if it has an existing ordinance requiring it to do so, or an existing policy or custom of doing so, and it is applied with some degree of uniformity to all parish employees.

Dear Mr. Moresi:

On behalf of the Vermillion Parish Police Jury, you have requested our opinion as to whether the Police Jury may pay Parish employees for five days during which the employees were unable to work due to the effects of Hurricane Rita. You provide in your letter that employees were unable to work because of a mandatory evacuation order, unsafe working conditions due to the effects of the hurricane, displacement and/or total loss of their homes, and the inoperability of portions of the parish government.

There are no general state laws regulating the entitlement of municipal employees to payment for benefits such as annual leave and sick leave but such payments must be made in compliance with all requirements imposed by the La. Constitution. We have consistently opined that while La. Const. Art. VII, Section 14(A) prohibits the gratuitous donation of public funds, it does **not** prohibit the lawfully authorized payment of compensation for labor or services provided in the course of employment. The employee benefits of annual leave and sick leave are not considered donations. (See Attorney General Opinions Nos. 99-102, 96-525)

However, to serve a public purpose and provide a public benefit, such compensation must be reasonable. In other words, there must be some congruity with the nature of the services rendered, as well as some degree of uniformity with the same type of benefits accorded all other employees. These criteria apply to both the regime of annual and sick leave benefits earned by public employees, as well as other types of leave benefits. (See Attorney General Opinion Nos. 90-358, 96-029, 94-336, 02-227.)

Your request does not state whether there is an existing ordinance, policy, or custom in the parish regarding this type of paid leave, so we cannot directly answer your question. However, if such a policy, ordinance, or custom exists and is applied with some degree

of uniformly to all parish employees, we believe the Police Jury may pay its employees for the five days missed due to the effects of Hurricane Rita.

We trust this adequately addresses your question. If you have any further questions, please contact our office.

Yours very truly,

CHARLES C. FOTI, JR.
Attorney General

BY: _____
DENISE B. FITZGERALD
Assistant Attorney General

CCF, jr./DBF/dam

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Syllabus

88 – Police Juries

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The Police Jury may pay its employees for the five days of work missed due to the effects of Hurricane Rita if it has an existing ordinance requiring it to do so, or an existing policy or custom of doing so, and it is applied with some degree of uniformity to all parish employees.

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Date Received:

Date Released: December 12, 2005

Denise B. Fitzgerald
Assistant Attorney General