

April 17, 2006
OPINION NUMBER 06-0011

Mr. Samuel C. D'Aquila
District Attorney
Twentieth Judicial District
P.O. Box 338
Jackson, Louisiana 70748

90 POLICE JURIES – Powers and Functions
90-A-1 PUBLIC FUNDS & CONTRACTS
La. Const. Art. VII, Section 14;
La. R.S. 33:1236

A police jury is authorized to use public funds to install culverts on public property and may install culverts on private property for a public purpose, i.e., to improve the drainage system of the parish. However, a police jury is not authorized to perform such work if the work is for the exclusive benefit of private interests.

Dear Mr. D'Aquila:

You requested an Attorney General's opinion regarding the installation of culverts on public and private property. You question whether the East Feliciana Parish Police Jury ("Police Jury") may replace or install culverts on public or private property if the old culverts are broken or otherwise obstruct drainage, or are needed to aid drainage. You indicate that La. R.S. 33:1236(2) authorizes the Police Jury to make such repairs when it is in the best interest of the parish and parish road system, and ask how much discretion the Police Jury has to do so without overstepping or abusing their authority.

The powers of police juries are set forth in La. R.S. 33:1236. You are correct that police juries do have the power to replace or install culverts pursuant to R.S. 33:1236(2) when it is in the best interest of the parish to do so. Our office has consistently stated that a police jury is authorized to use public funds to install culverts on public property and may install culverts on private property for a public purpose, i.e., to improve the drainage system of the parish. However, a police jury is not authorized to perform such work if the work is for the exclusive benefit of private interests. See Attorney General Opinion Nos. 05-0272, 01-196, 00-277, 97-428, 93-396, 79-509, 78-425 and 77-307.

As far as the amount of discretion the Police Jury has, in Attorney General Opinion No. 90-289, we stated that the exercise of a police jury's functions "is subject to much discretion and has traditionally been judicially granted much latitude.", citing *Torrance v. Caddo Parish Police Jury*, 119 So.2d 617 (La.App. 2nd Cir.1960). The *Torrance* court stated: "Generally an abuse of discretion results from a conclusion reached capriciously or in an arbitrary manner." *Id.* at 619. Therefore, as long as the police jury's decision is not arbitrary or capricious, they will be within their discretion.

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

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