

August 28, 2006  
**OPINION NUMBER 06-0154**

Hon. Errol "Romo" Romero  
State Representative  
District 48  
300 Iberia Street, Suite A-326  
New Iberia, Louisiana 70560-4543

15-A CONSTITUTIONAL LAW  
La. R.S. 11:221

Statutes are presumed constitutional unless declared  
otherwise by the judiciary.

Dear Rep. Romero:

You requested an Attorney General's opinion regarding the constitutionality of statutory offsets to disability retirees. You question whether the offset mandated by La. R.S. 11:221 is constitutional.

First, we note that all statutes are presumed to be constitutional. The Louisiana Legislature is presumed to have intended to enact a constitutionally valid law. *State v. Manuel*, 426 So.2d 140 (La. 1983). It is well established that all statutory enactments are presumed constitutional and every presumption of law and fact must be indulged in favor of legality. *Moore v. RLCC Technologies, Inc.*, 95-2621 (La.2/28/96), 668 So.2d 1135; *Faul v. Trahan*, 1998-488 (La.App. 3 Cir. 10/7/98) 718 So.2d 1081, 1087.

A party who attacks the constitutionality of a statute bears a heavy burden, and he must prove by clear and convincing evidence that the statute violates a specific constitutional provision. *Board of Directors of La. Recovery District v. All Taxpayers, et al*, 529 So.2d 384 (La. 1988). We are unaware of any judicial declaration affecting the presumed constitutionality of R.S. 11:221. Therefore, this office is of the opinion that statutory offsets to disability retirees, as mandated by La. R.S. 11:221, are constitutional.

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/crt

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Kenneth L. Roche, III  
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