

November 9, 2006
OPINION NO. 06-0164

Ms. Polly C. Boudreaux
Clerk of Council
St. Bernard Parish Council
8201 West Judge Perez Drive
Chalmette, Louisiana 70043

**71 - 1-B MUNICIPALITIES – HOME RULE CHARTER;
St. Bernard Parish Home Rule Charter – Section 2-
17(d); Section 2-14**

Home Rule Charter cannot be suspended to levy fees and charges. All fees and charges must be approved by voters.

Dear Ms. Boudreaux:

Your request for an Attorney General's opinion has been forwarded to me for research and reply. Specifically, you ask if it is permissible to suspend the provision in the St. Bernard Parish Home Rule Charter requiring all proposals to levy fees and charges be approved by the voters of St. Bernard Parish?

The answer to this question is "no." According to Section 2-17(d), "All proposals to levy a new or increase an existing sales and use tax, charge, or fee shall be submitted to the voters for approval in accordance with the election laws of the state." While Section 2-14 of your home rule charter allows the council to adopt emergency ordinances to meet a public emergency such as the damage caused by Hurricane Katrina, some of the exceptions to implementing an emergency ordinance are that the ordinance cannot be used to levy taxes or special assessments, incur debt, or change rates, fees, or charges established by the parish government. This does not allow the St. Bernard Parish Council to suspend the provision which requires voter approval to levy fees and charges. The voters must approve any fees and charges.

In summary, the provisions of the Home Rule Charter must be followed to levy fees and charges. The voters must approve any fees and charges.

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We trust your question has been answered. However, if you should need anything further, do not hesitate to contact this office.

Very truly yours,

CHARLES C. FOTI, JR,
ATTORNEY GENERAL

BY: _____
FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL

CCF,Jr.:FJP:sc

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**St. Bernard Parish Home Rule Charter – Section 2-17(d)
Section 2-14**

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**FRANCES J. PITMAN
ASSISTANT ATTORNEY GENERAL**