

August 28, 2006
OPINION NUMBER 06-0170

61-Laws-General
R.S. 47:1903 et seq.

Nancy J. Marshall
Assessor, Sixth Municipal District
1300 Perdido Street, Room 4E01
New Orleans, LA. 70112

The statutory salary and expense fund allocated to each assessor for Orleans Parish is paid directly to each assessor, and such allocation cannot be re-directed for the purpose of hiring additional deputy assessors.

Dear Ms. Marshall:

You have requested an opinion of this office on whether, as elected assessor for the Sixth Municipal District, Orleans Parish, you may forego receiving your salary and re-direct those funds to be used for operating costs to hire additional deputy assessors.

According to your request, you ran for Assessor for the Sixth Municipal District, Orleans Parish, and made a campaign pledge that, if elected, you would not take any salary or benefits (*i.e.*, insurance, monies that would have contributed toward retirement, personal and traveling expenses) for your services as assessor. Now elected, you want any salary and benefits due you to be contributed to operating costs to hire additional deputy assessors in your District.

La. R.S. 47:1901(B) provides that “in the parish of Orleans, there shall be seven tax assessors, one from each municipal district.” These seven assessors constitute a board of assessors for the parish. La. R.S. 47:1909. The board of assessors has a president and vice-president, whose offices are filled by two of the seven assessors on a rotating basis. *Id.* There is a salary and expense fund in the office of the president of the board of assessors for the parish of Orleans from which all salaries and expenditures “shall be paid by warrants or checks drawn by the president of the board of assessors . . . in favor of assessors who are members, upon the salary and expense fund.” R.S. 47:1910.

R.S. 47:1907(A)(1), which addresses the salaries of Orleans Parish assessors, provides that “the assessors of . . . each district in Orleans Parish shall receive an annual compensation, to be paid monthly on their own warrant, based on the applicable population of the . . . respective districts in Orleans Parish.” The current schedule, found in La. R.S. 47:1901, is as follows:

Population	Compensation
Less than 24,999	\$ 60,000
25,000 to 99,999	\$ 65,000
100,000 to 299,999	\$70,000
300,000 to 399,999	\$75,000
400,000 and over	\$80,000

In addition to his salary, “each individual assessor shall be granted ten percent of his annual compensation as a personal expense allowance provided that the tax receipts of the respective tax recipient bodies shall not be reduced.” La. R.S. 47:1907(B). Both the assessor’s salary and personal expense money is drawn by the president of the board of assessors monthly and issued “monthly to the members of the board of assessors . . . for the amount allotted to each municipal district and the board of personnel, which shall be drawn against and paid out of the salary and expense fund.” La. R.S. 47:1910. The foregoing statutory provisions clearly state that the salary and expense due each assessor is paid directly to the assessor and not to the office of the assessor.

La. R.S. 47:1903 enumerates the general powers and authority of tax assessors, the Parish of Orleans excepted. This authority includes the authority “to appoint as many deputies as he may require.” La. R.S. 47:1909 constitutes this same authority for the Board of Assessors of Orleans Parish. Also see La. Atty. Gen. Op. No. 99-102. Pursuant to La. R.S. 47:1910 the members of the Board of Assessors of Orleans Parish “are authorized to fix the compensation of their deputies and clerical forces and to pay all other expenses, including their own salaries and the salaries of all deputies and clerical assistants . . . from the salary and expense fund.” Thus, the deputies’ salaries must come from the salary and expense fund for the Board of Assessors for the Parish of Orleans.

This office has previously opined that when a salary is payable to the individual instead of to the office, the fees may not be used by the individual to supplement others salaries. See La. Atty. Gen. Op. No. 05-0014. The statutes relating to the compensation of the assessors for Orleans Parish clearly provide that the salary of each elected assessor is to be paid to the individual assessor and not the office of the assessor. As such, the salary you receive as assessor for the Sixth Municipal District cannot be re-directed for the purpose of hiring additional deputy assessors.

However, you may choose to donate your salary funds back to your office and which can then be used to increase the operating budget and used to hire additional deputy assessors. We note that donating your salary back to your office will not necessarily relieve you of your obligation to pay state and federal income taxes. La. Atty. Gen. Op. No. 05-0014.

It is, therefore, the opinion of this office that the statutory salary and expense fund allocated to each assessor for Orleans Parish is paid directly to each assessor and such allocation cannot be re-directed for the purpose of hiring additional deputy assessors.

We trust this adequately responds to your request. If you have any questions or comments, please do not hesitate to contact our office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By: _____

RICHARD L. McGIMSEY
Assistant Attorney General

CCF, JR/RLM/jv

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Syllabus

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Date Received:

Date Released: August 28, 2006

Richard L. McGimsey
Assistant Attorney General