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State of Louisiana
DEPARTMENT OF JUSTICE
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APR 30 2013
Opinion 13-0001

Hon. Hilda D. Curry
Mayor, New Iberia
457 East Main Street
Suite 300
New Iberia, LA 70560-3700

90-A-1 PUBLIC FUNDS & CONTRACTS

La. Rev. Stat. 39:704

The City of New Iberia may not use certain sales tax proceeds to purchase a street sweeper.

Dear Mayor Curry:

Your opinion request has been assigned to me for research and reply. You have asked for our opinion as to whether certain sales tax proceeds may be used to purchase a street sweeper for the City of New Iberia. According to your request, the proposition that gives rise to the sales tax proceeds reads as follows:

"PROPOSITION (SALES TAX RENEWAL)

SUMMARY: AUTHORITY TO RENEW A ¼% SALES TAX FOR 10 YEARS WITH THE PROCEEDS TO BE USED AS FOLLOWS:(1) TO PAY THE COST OF MAINTAINING AND OPERATING A PARISHWIDE MOSQUITO CONTROL PROGRAM, INCLUDING THE COST OF ACQUIRING LAND, BUILDINGS, AND EQUIPMENT NECESSARY IN CONNECTION THEREWITH; AND (2) THE BALANCE OF THE PROCEEDS TO BE DIVIDED ANNUALLY ON OR BEFORE MAY 1ST OF EACH YEAR, BETWEEN THE PARISH AND THE INCORPORATED MUNICIPALITIES OF THE PARISH ON A PER CAPITA BASIS ACCORDING TO THE 2000 U.S. CENSUS, FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING AND IMPROVING DRAINAGE FACILITIES; WITH AUTHORITY TO FUND THEIR RESPECTIVE PROCEEDS INTO BONDS FOR PAYING THE COST OF THE AFORESAID CAPITAL IMPROVEMENTS."

Louisiana law provides that the proceeds of any special tax shall constitute a trust fund to be used exclusively for the objects and purposes for which the tax was levied. La. R.S. 39:704. Additionally, Louisiana jurisprudence provides that special tax authorizations must be strictly construed. *Police Jury of the Parish of Acadia v. All Taxpayers, et al.*, 95-145 (La. App. 3rd Cir. 3/29/95), 653 So.2d 94,

rehearing denied; Hemler v. Richland Parish School Board, 76 So. 585 (La. 1917); *Watkins v. Ouachita Parish School Board*, 136 So. 591 (La. 1931); *Hodnett v. Monroe City School Board*, 277 So.2d 598 (La. App. 2nd Cir. 1972) and *Brock v. St. James Parish Council*, 407 So.2d 1265 (La. App. 4th Cir. 1981), *writ denied*. It has consistently been the opinion of this office that sale and use tax proceeds must be used solely for the purposes approved by the voters. La. Atty. Gen. Op. Nos. 12-0089, 09-0150.

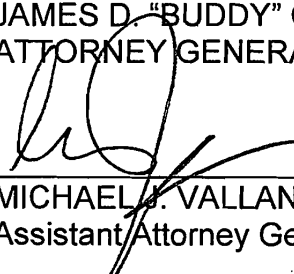
Our reading of the tax proposition at issue reveals that incorporated municipalities, such as the City of New Iberia, may only use the sales tax proceeds to construct, acquire or improve its drainage facilities or otherwise pay for capital improvements. Accordingly, using the sales tax proceeds to purchase a street sweeper would not be a use that comports with the objects and purposes for which the tax was levied. As such, the City of New Iberia may not use the sales tax proceeds to make such a purchase.

We trust this adequately responds to your request. However, if our office can be of further assistance, please do not hesitate to contact us.

Yours very truly,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:


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JDC/MJV/chb