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ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
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OPINION 13-0097

Mr. Chett C. Chiasson
Executive Director
Greater Lafourche Port Commission
Post Office Drawer 490
Galliano, Louisiana 70354

90-A-1 PUBLIC FUNDS & CONTRACTS
La. R.S. 34:1651
La. R.S. 11:411
La. R.S. 11:413

Employees of the Greater Lafourche Port Commission must participate in the Louisiana State Employees' Retirement System unless a particular employee is exempt by the provisions of La. R.S. 11:413.

Dear Mr. Chiasson:

You have requested an opinion regarding whether new hires and/or future employees of the Greater Lafourche Port Commission ("Commission") are required to participate in the Louisiana State Employees' Retirement System ("LASERS").

The Commission is a political subdivision of the State and is governed by the provisions of La. R.S. 34:1651, *et seq.* Membership in LASERS is governed by La. R.S. 11:411 and is mandatory for all employees in state service unless specifically excluded by law. La. R.S. 11:411(a) provides that membership in LASERS shall be as follows: "[e]ach person who becomes an employee in the state service, except those specifically excluded or as to whom an option or election is provided in this Section, shall become a member of the system as a condition of employment." The word "shall" is mandatory. La. R.S. 1:3.

La. R.S. 11:403 defines the following terms for purposes of the laws regulating LASERS:

(4) "Agency" means any governmental body employing persons and includes departments, agencies, boards, commissions, and courts.

(11) "Employee" means any person legally occupying a position in the state service.

(12) "Employer" means the state of Louisiana or any of its boards, commissions, departments, agencies, and courts which are contributing members of the Louisiana State Employees' Retirement System.

It is our opinion that the Commission meets the definition of an agency and employer for purposes of LASERS laws. We have also confirmed with LASERS that the Commission

is presently a contributing employer to the retirement system. Therefore, membership in LASERS for new employees of the Commission is mandatory unless a particular employee falls into a class of employees that is exempt from membership by La. R.S. 11:413.¹

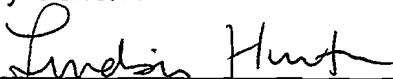
We also want to note that although employees of the Commission must participate in LASERS unless specifically excluded by La. R.S. 11:413, the Commission members are not eligible for LASERS membership based on their position on the Commission. Commission members are part-time public officials who, unless they meet certain grandfather provisions, are excluded from membership in any public retirement system by La. Const. art. X, Sec. 29.1(A)(3) and La. R.S. 11:164(A)(3).

Based on the foregoing, it is the opinion of this office that participation in LASERS is mandatory for new hires and/or future employees of the Commission unless a particular employee is exempt from membership by La. R.S. 11:413.

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: 
Lindsey K. Hunter
Assistant Attorney General

¹ La. R.S. 11:413 provides that certain classes of employees and officers shall not become members of LASERS. Examples of these classes of employees include, but are not limited to, those who contribute to another retirement system, those who receive a per diem in lieu of earned compensation, and persons employed on a part time basis (except those with ten or more years of creditable service in LASERS). See La. R.S. 11:413 for the full list of those employees exempted from LASERS membership.