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State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
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JUL 30 2015
OPINION 15-0026

Representative Helena Moreno
Louisiana House of Representatives
District 93
643 Magazine St., Suite 302
New Orleans, LA 70130

90-A-1 PUBLIC FUNDS & CONTRACTS
La. R.S. 39:9038.32
La. R.S. 39:9038.39
La. R.S. 39:704

The French Quarter Economic Development District may levy and collect additional sales taxes only if the sales tax increases are approved by the voters within the district.

The French Quarter Economic Development District may only use proceeds of a sales tax in a manner consistent with the purposes stated in the proposition approved by the voters of the district.

Dear Representative Moreno:

On behalf of the citizens in District 93, you have requested an opinion from this office related to the imposition of taxes by an economic development district. According to your request, you have asked whether an economic development district can be used as a taxing district for the purposes of raising taxes. Telephone conversations with your office revealed that your request specifically relates to the authority or ability of the French Quarter Economic Development District ("FQEDD") to tax. Your office indicated that the FQEDD is seeking to have the voters in the FQEDD approve a .2495% sales tax for the purpose of funding enhanced and supplemental public safety services to facilitate economic development within the FQEDD territorial bounds. It is this office's understanding that the residents of the FQEDD want to ensure that the proceeds of the tax cannot be used for purposes other than what is approved by the voters, and that additional sales taxes cannot be unilaterally imposed by the FQEDD.

According to information provided to this office, the FQEDD was created by the governing authority of the City of New Orleans. The creation of such an economic development district is specifically authorized under La. R.S. 39:9038.32. Under La. R.S. 39:9038.39, the FQEDD is authorized to levy and collect a sales tax up to two percent (2%); however, the FQEDD may only levy and collect the additional sales tax after it "has called a special election submitting the proposition for the levy of such taxes to the qualified electors of the district and the proposition has received the favorable vote of a majority of the electors voting in the election." Accordingly, the FQEDD may levy additional sales taxes in the future, but only if the sales tax increases are approved by a majority of the voters within the FQEDD. It cannot raise the sales tax unilaterally.

Additionally, the FQEDD may only use proceeds received from a sales tax in the manner stated in the proposition approved by the voters of the FQEDD. 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. 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. 3 Cir. 3/29/95); 653 So.2d 94, *rehearing denied*, 657 So.2d 1032 (La. 6/30/95); *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. 2 Cir. 1972) and *Brock v. St. James Parish Council*, 407 So.2d 1265 (La. App. 4 Cir. 1981), *writ denied* 412 So.2d 1094 (La. 1982). Moreover, 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. See, e.g., La. Atty. Gen. Op. Nos. 13-0159, 12-0089, 09-0150, 02-0060.

According to the information provided to this office, the proposition that is to be submitted to the voters of the FQEDD states that the proceeds of the sales tax shall be used for the "purpose of funding enhanced and supplemental public safety services to facilitate economic development within the FQEDD." If this sales tax is approved by the voters of the FQEDD, the FQEDD will only be able to use the proceeds of the sales tax to provide public safety services within the FQEDD. The FQEDD would be prohibited from using the funds in a manner inconsistent with this purpose. The FQEDD could seek to re-dedicate these proceeds for another purpose; however, such a re-dedication would have to be approved by the voters of the FQEDD.

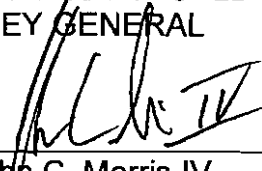
In conclusion, it is the opinion of this office that the FQEDD may only levy and collect additional sales taxes if the sales tax increases are approved by a majority of the voters FQEDD. It is further the opinion of this office that the FQEDD may only use the proceeds of a sales tax in a manner consistent with the purposes approved by the voters of the FQEDD, as stated in the proposition submitted to the voters.

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,

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By:


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