



Jeff Landry  
Attorney General

## State of Louisiana

DEPARTMENT OF JUSTICE  
CIVIL DIVISION  
P.O. BOX 94005  
BATON ROUGE  
70804-9005

December 22, 2021

OPINION 21-0118

Honorable Karla Cockerham  
Mayor  
Town of Tullos  
P.O. Box 749  
Tullos, Louisiana 71479

90-A-1 Public Funds & Contracts

La. Const. art. VII, § 14

The Town of Tullos may not absorb a loss or pay the difference in new utility connection costs. Because the Town is under no obligation to provide the installation or connection of utilities on private property, not requiring the full cost to be assessed against the customer would violate La. Const. art. VII, § 14(A).

Dear Mayor Cockerham:

You have requested an opinion of the Attorney General's office concerning water and sewer connection fees related to the Town of Tullos' ("Town") water system. Specifically, you have asked whether a new connection fee is the responsibility of the customer; if so, is it permissible for the customer to pay a partial amount of the full connection fee and the Town absorb the difference. Your request has been assigned to me for research and reply.

You state that upon taking office, it was discovered that the Town was not charging a fee for new customer water and sewer connections. The Town subsequently passed an ordinance that calls for a \$600.00 fee for both new water and new sewer connections. However, since the adoption of this ordinance, it has been observed that the \$600.00 fee does not cover the total cost of a new water or sewer connection. Recently, the Town's council members introduced a new ordinance that will increase the sewer and water connection fee from \$600.00 to \$1,000.00 in an attempt cover the actual cost of these new connections. The ordinance as proposed will contain a provision stating that if the actual cost of the connection fee is less than the \$1,000.00 paid by the customer, the Town will reimburse the customer the difference. Some of the Town's council members are concerned with the increase and question whether the Town can keep the fee at \$600.00 and absorb the difference with the Town sewer account or the Town water account since the Town is still adding a new customer to the system.

The question of whether the Town of Tullos may use its water and sewer accounts to absorb the difference between a \$600.00 connection fee and the actual cost to provide such a connection must be examined in light of La. Const. art. VII, § 14(A), which provides, in pertinent part, as follows:

Section 14(A) Prohibited Uses. Except as otherwise provided in this constitution, the funds, credit, property, or things of value of the state or of

any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

The Louisiana Supreme Court has determined that La. Const. art. VII, § 14(A) is violated when public funds or property are gratuitously alienated.<sup>1</sup> In light of the Court's interpretation of this constitutional provision, this office has consistently opined that in order for an expenditure of public funds or property to be permissible under La. Const. art. VII, § 14(A), the public entity must have the legal authority to make the expenditure and must show the following:

1. A public purpose of the expenditure or transfer that comports with the governmental purpose for which the public entity has the legal authority to pursue;
2. That the expenditure or transfer, taken as a whole, does not appear to be gratuitous; and
3. That the public entity has a demonstrable, objective, and reasonable expectation of receiving something real and substantial in exchange for the expenditure or transfer of public funds.<sup>2</sup>

This office has consistently found that paying the installation or connection costs for utilities of private residents violates La. Const. art. VII, § 14(A). In La. Atty. Gen. Op. No. 12-0148, we considered whether the Village of Turkey Creek could use public funds to pay the water connection fees for private property owners. We opined that while the Village could perform the work to connect the residents to the water system, the costs associated with such a connection must be passed along to the customer. Similarly, La. Atty. Gen. Op. No. 00-0485 found that the Village of Converse could not assume the cost of the installation of utility line and/or equipment on the private property of potential sewer customers. Reaching the same conclusion in La. Atty. Gen. Op. No. 97-0099, our office once again found that the Town of Jean Lafitte could not assume the cost of the "hook-up," or installation of lines and equipment on private property for potential utility customers. Municipalities are under no obligation to provide connections, lines, and equipment on private property when doing so would be tantamount to a gratuitous donation. Such an expenditure would not pass the first prong of the *Cabela's* analysis, and as such, there is no need to consider the second and third prongs.

Considering the foregoing, it is the opinion of this office that the Town of Tullos may not absorb a loss or pay the difference in new utility connection costs. Because the Town is under no obligation to provide the installation or connection of utilities on private property, not requiring the full cost to be assessed against the customer would violate of La. Const. art. VII, § 14(A). If a municipality is undertaking the installation or connection of lines and equipment on the property of a potential customer, the municipality must assess each

---

<sup>1</sup> *Board of Directors of the Industrial Development Board of the City of Gonzales, Louisiana Inc. v. All Taxpayers, Property Owners, Citizens of the City of Gonzales*, 05-2298 (La. 9/6/06), 938 So.2d 11, 20 ("Cabela's").

<sup>2</sup> See La. Atty. Gen. Op. Nos. 20-0077, 20-0074, 19-0134, 18-0075, 16-0198, and 10-0299.

customer a fee that is sufficient to defray the cost of the installation and materials used to provide the connection.

We hope that this opinion has adequately addressed the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

Yours very truly,

JEFF LANDRY  
ATTORNEY GENERAL

BY: Justin Lester  
Justin H. Lester  
Assistant Attorney General