



Jeff Landry
Attorney General

State of Louisiana

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

September 6, 2023
OPINION 23-0097

The Honorable David L. Dauzat
Sheriff, Avoyelles Parish
675 Government Street
Marksville, LA 71351

16 CRIMINAL LAW - Crimes & Offenses

La. R.S. 14:139.1

An increase in expenses necessitated by a public emergency does not violate La. R.S. 14:139.1(A)(2).

Dear Sheriff Dauzat:

You requested an opinion from our office regarding the application of La. R.S. 14:139.1 with respect to the repair of the roof and interior of a jail facility by the Avoyelles Parish Sheriff's Office ("APSO"). According to your request, the damages are a result of wind damage from Hurricanes Laura, Ida, and Delta, and the 2021 ice storm which resulted in a major disaster declaration by the Federal Emergency Management Agency. The APSO is currently in litigation with its insurer regarding these damages, but you would like to move forward with the repairs to prevent more damage to the facility and offices from water leaks and mold resulting from the previous damage. You also note that Louisiana is experiencing record-high temperatures which exacerbate these problems and lead to unsafe health conditions.¹

Louisiana Revised Statute 14:139.1(A)(2) generally prohibits a sheriff from substantially increasing the payroll or other operating expenses of his office more than fifteen percent over its average amount of such expenditures during the six months preceding a gubernatorial election and during the time interval between the gubernatorial election and the first day of July following the election.² According to your request, should APSO move forward with the roof and interior repair of the jail facility, the repair will represent an increase of more than fifteen percent of APSO's average expenditures in the month in which the contract is executed compared to the average of APSO's monthly expenditures for the first six months of the twelve months preceding the gubernatorial election this year. You would like to know if your office would be in violation of La. R.S. 14:139.19(A)(2) by funding the project within six months of the 2023 gubernatorial election.

First, we note that La. R.S. 14:139.1(C) states, "The provisions of this Section shall not apply when the increases or decreases are necessitated by flood, invasion by common enemy, or other public emergency." Our office previously opined that a national emergency declared by the President of the United States constitutes a public emergency

¹ See Proclamation Number 141 JBE 2023 declaring a state of emergency due to excessive heat.

² The average is the "average amount of such expenditures for each of the months of the first six months of the twelve months preceding the election." La. R.S. 14:139.1(A)(2).

for the purposes of La. R.S. 14:139.1.³ Here, each of the natural disasters that caused the damage to be repaired was declared a public emergency by the State and/or Federal Government.⁴ Thus, based on the facts above, it is the opinion of this office that the exception in La. R.S. 14:139.1(C) applies where the increase in expenses are necessitated by a public emergency.

Additionally, even if the exception in La. R.S. 14:139.1(C) did not apply here, the expenditures at issue here are extraordinary repairs that fall outside of the purview of day-to-day operating expenses and therefore do not fall within the reach of the statute's prohibitions. The prohibitions in La. R.S. 14:139.1 must be strictly construed since the violation of La. R.S. 14:139.1(A) constitutes a felony.⁵ This office has previously found that, in the context of a similar prohibition for other elected officials, La. R.S. 14:139, remodeling or physical improvements to an office are not operating expenses.⁶

It is the opinion of this office that the repairs to the roof and interior of the jail facility do not fall under the payroll padding prohibition of La. R.S. 14:139.1.

We trust that this adequately responds to your request and the issue that you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,
JEFF LANDRY
ATTORNEY GENERAL

BY: Brett A. Robinson
Brett A. Robinson
Assistant Attorney General

³ La. Atty. Gen. Op. No. 19-0064.

⁴ See Proclamation Number 136 JBE 2023 (renewing the State of Emergency for Hurricane Ida); Proclamation Number 135 JBE 2023 (renewing that State of Emergency for Hurricane Delta); FED. EMERGENCY MGMT. AGENCY, DHS, FEMA-4590-DR (March 9, 2021) (Declaration of Major Disaster due to Severe Winter Storms); Proclamation Number 141 JBE 2023 (declaring a state of emergency due to excessive heat).

⁵ La. R.S. 14:139.1(D).

⁶ La. Atty. Gen. Op. Nos. 03-0227 and 99-62.