

June 30, 2014
OPINION 14-0045

90-A-1 PUBLIC FUNDS & CONTRACTS
La. Const. art. VII, Sec. 14

Mr. Paul J. Hogan, P.E.
St. Charles Parish Councilman
Post Office Box 302
Hahnville, Louisiana 70057

Public entities must make reasonable attempts to collect debts owed to them as required by La. Const. art. VII, Sec. 14(A). Legal counsel for the public entity is in the best position to determine and advise the entity on which debts and what collection methods to pursue, taking into consideration the cost of potential recovery and any possible defenses to collection.

Dear Mr. Hogan:

You have requested an opinion of this office regarding the means and methods available to the St. Charles Parish Government (the "Parish") to recover costs associated with having provided dumpsters to private individuals. This request follows the opinions expressed by this office in La. Atty. Gen. Op. No. 13-0171.

Our office has previously opined that a public entity has a duty to be a prudent manager of the public fisc, which includes recovery of money owed to it. For example, in La. Atty. Gen. Op. No. 93-279, this office opined that if money was owed to a City, "then by all means, the City should demand payment and/or institute legal proceedings for the recovery of the money." Similarly, La. Atty. Gen. Op. No. 05-0448 concluded that a school board had a legal obligation to attempt to recover monies that were improperly paid to school bus drivers. We have also opined that based on the language of La. Const. art. VII, Sec. 14(A), a public entity has no authority to set-aside, reduce, or otherwise forgive a debt owed to the public entity. See La. Atty. Gen. Op. Nos. 13-0079, 10-0287 and 10-0264. Therefore, if money is owed to the Parish, the Parish should take reasonable steps to recover it.

However, with regard to the means or method the Parish should use to recover any funds owed to it, our office will defer to the Parish's legal counsel. Counsel to the Parish is in the best position to determine which debts are collectable and what collection methods to pursue, taking into consideration the cost of potential recovery versus collection costs and any possible defenses to collection. See La. Atty. Gen. Op. No. 12-0169, which opined that La. Const. art. VII, Sec. 14 required the East Feliciana Parish School Board to pursue the collection of unpaid and disputed taxes unless the school board, with the advice of its legal counsel, determined that the benefit or value of recovery would be less than the costs that would be expended pursuing the collection of the taxes.

Therefore, it is the opinion of this office that public entities must make reasonable attempts to collect debts owed to them as required by La. Const. art. VII, Sec. 14(A). Legal counsel for the public entity is in the best position to determine and advise the entity on which debts and what collection methods to pursue, taking into consideration the cost of potential recovery and any possible defenses to collection.

If our office can be of any 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

JDC/LKH/chb

cc: Mr. Sonny Vial, St. Charles Parish Legal Services Director

Opinion 14-0045
Syllabus

90-A-1 PUBLIC FUNDS & CONTRACTS
La. Const. art. VII, Sec. 14

Public entities must make reasonable attempts to collect debts owed to them as required by La. Const. art. VII, Sec. 14(A). Legal counsel for the public entity is in the best position to determine and advise the entity on which debts and what collection methods to pursue, taking into consideration the cost of potential recovery and any possible defenses to collection.

Mr. Paul J. Hogan, P.E.
St. Charles Parish Councilman
Post Office Box 302
Hahnville, Louisiana 70057

Date Received:

Date Released: June 30, 2014

Lindsey K. Hunter
Assistant Attorney General