



JAMES D. "BUDDY" CALDWELL  
ATTORNEY GENERAL

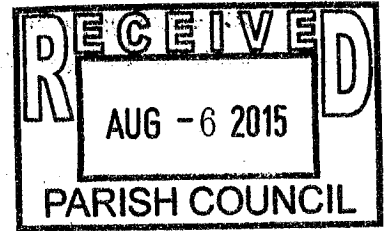
## State of Louisiana

DEPARTMENT OF JUSTICE

P.O. BOX 94005

BATON ROUGE

70804-9005



AUG 03 2015

OPINION 15-0067

Tiffany K. Clark  
St. Charles Parish Council Secretary  
P.O. Box 302  
Hahnville, LA 70057

90-A-1 PUBLIC FUNDS & CONTRACTS

La. Const, art. VII, Sec. 14

La. R.S. 33:5161

St. Charles Parish may invest funds held in trust pursuant to La. R.S. 33:5161 in any or all of the types of investments set forth in La. R.S. 33:5162(A), subject to the restrictions and limitations set forth in Subsection B and C thereof.

Dear Ms. Clark,

On behalf of the St. Charles Parish Council, you have asked for our opinion regarding post-employment benefit trusts established pursuant to La. R.S. 33:5161.

La. R.S. 33:5161(A)(1) specifically provides that "[n]otwithstanding any other provision of the law to the contrary, a political subdivision may establish, by ordinance or resolution, post-employment benefits funds." Further, La. R.S. 33:5161(B) authorizes political subdivisions "to establish, by ordinance or resolution, one or more trusts or to participate in a multiemployer trust to hold and invest the assets of post-employment benefits funds."

Any investment of the funds held in a trust created pursuant to La. R.S. 33:5161(B) must be in accordance with La. R.S. 33:5162, which authorizes the investment of funds placed into trust pursuant to La. R.S. 33:5161 in specifically enumerated securities.

Specifically, you ask whether such a trust may invest those funds in any or all of the securities set forth in La. R.S. 33:5162(A), subject to the restrictions and limitations set forth in Subsection B and C thereof, or whether such investment is limited to the obligations authorized by La. R.S. 33:2955.

Prior opinions of this office have stated that political subdivisions may only invest funds contained in a trust dedicated to providing post-employment benefits pursuant to La. R.S. 33:2955. La. Atty. Gen. Op. Nos. 07-0066 and 15-0012. However, no prior opinion has specifically discussed a trust established pursuant to La. R.S. 33:5161.

In La. Atty. Gen. Op. No. 07-0066, this office determined that public bodies may independently establish and employ irrevocable trusts that hold monies for future

payment of post-employment benefits other than pensions. There, we recognized that political subdivisions have the authority to invest those funds under La. R.S. 33:2955.

In La. Atty. Gen. Op. No. 15-0012, we opined that the Capital Area Ground Water Conservation District may establish either a trust under Section 115 of the Internal Revenue Code or a Voluntary Employee Beneficiary Association trust under Section 501(c)(9) of the Internal Revenue Code for the purpose of funding post-retirement health benefits of its employees. However, we cautioned that the funds contained in trust may only be invested in accordance with the provisions of La. R.S. 33:2955.


The trusts established in the prior opinions discussed above were established as irrevocable trusts under the Internal Revenue Code and not pursuant to any specific Louisiana statute. Generally, the investment of funds belonging to a political subdivision is governed by La. R.S. 33:2955. However, La. R.S. 33:5161 and 5162 were enacted in 2007 by Act No. 202, § 1 and specifically authorize the creation of trusts to hold and invest the assets of post-employment benefit funds of political subdivisions. Accordingly, any trust specifically established by Chapter 17 of Title 33 of the Louisiana Revised Statutes is governed exclusively by La. R.S. 33:5161 and 5162.

St. Charles Parish has created a trust pursuant to La. R.S. 33:5161 for the purpose of funding post-employment benefits. La. R.S. 33:5162 specifically authorizes "a trust created pursuant to this Chapter..." to invest funds in a more expanded list of securities than La. R.S. 33:2955. Therefore, it is the opinion of this office that St. Charles Parish may invest those funds held in a trust created pursuant to La. R.S. 33:5161 in any of the securities set forth in La. R.S. 33:5162(A), subject to the restrictions and limitations set forth in Subsection B and C thereof.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance, please do not hesitate to contact our office.

Yours very truly,

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Attorney General

By:   
ANDREA L. BARIANT  
Assistant Attorney General

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**Syllabus**

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Tiffany K. Clerk  
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