

June 26, 2008
OPINION 08-0155

Mr. Fred Armand, Jr.
28325 Charlie Watts Road
Livingston, LA 70754

78 DUAL OFFICEHOLDING
57 JUSTICE OF THE PEACE

R.S. 42:63(D), R.S. 42:62(9)

While the dual officeholding laws do not prohibit a parish employee from running for or holding the office of justice of the peace, this elected official is subject to the Code of Judicial Conduct; further guidance from the Judiciary Commission is appropriate.

Dear Mr. Armand:

You advise that you are currently employed by the Livingston Parish Department of Public Works. You ask if you may seek the office of Justice of the Peace in Livingston Parish while continuing in your parish employment.

There is no state law which prohibits a parish employee from seeking elected office while retaining his employment. In the absence of any applicable parish civil service ordinances prohibiting the foregoing, a parish employee may seek elective office as a justice of the peace.

If elected, the dual officeholding statutes would not prohibit your continued employment with the parish. The language of R.S. 42:63(D) prohibits one from holding employment in the same political subdivision in which he holds elected office, but does not prohibit one from holding elective office and employment in a separate political subdivision. R.S. 42:63(D) provides, in part:

D. No person holding an elective office in a political subdivision of this state shall at the same time hold another elective office or full-time appointive office in the government of this state or in the government of a political subdivision thereof. No such person shall hold at the same time employment in the government of this state, or in the same political subdivision in which he holds an elective office.....(Emphasis added).

A parish and a justice of the peace court are separate political subdivisions as defined by R.S. 42:62(9):

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(9) "Political subdivision" means a parish, municipality, and any other unit of local government, including a school board and a special district authorized by law to perform governmental functions. In addition for the purposes of this Part, mayor's courts, justice of the peace courts, district attorneys, sheriffs, clerks of court, coroners, tax assessors, registrar of voters, and all other elected parochial officials shall be separate political subdivisions.

Because the positions here are held within separate political subdivisions, the prohibitions of R.S. 42:63(D) are inapplicable. Thus, the dual officeholding laws do not prohibit you from holding both positions. In accord are Attorney General Opinions 96-217 and 90-518, copies attached.

The opinion of this office regarding your question is limited to an examination of the dual officeholding and dual employment statutes. We caution you that a Justice of the Peace is further subject to the provisions of the Code of Judicial Conduct; those provisions come within the authority of the Judiciary Commission. A Justice of the Peace, who may not be prohibited by a technical reading of the dual officeholding statutes from holding certain public employments, may nonetheless be prohibited from doing so by the Code of Judicial Conduct. For this reason, we suggest that you contact Mr. Steven Scheckman, Office of Special Counsel to the Judiciary Commission, 601 St. Charles Avenue New Orleans, LA 70130, phone: (504) 568-8299 for a final resolution regarding your inquiry.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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SYLLABUS

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Date Received:

Date Released: June 26, 2008

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL