

March 16, 2001
OPINION NUMBER 01-98

78 OFFICERS – Dual Office Holding

Joanne C. Bourgeois
P.O. Box 628
Brusly, LA 70719

An individual may simultaneously hold the positions of West Baton Rouge Parish Library Board of Trustees member and Brusly Town Council member without violating dual officeholding provisions as long as the position of West Baton Rouge Parish Library Board of Trustees member is part time.

Dear Ms. Bourgeois:

We are in receipt of your request for an Attorney General's Opinion concerning a possible dual officeholding violation. In your opinion request, you state that the West Baton Rouge Parish Council appointed you to the Board of Trustees of the West Baton Rouge Parish Library in 1976, a position which is without compensation of salary or pay. Additionally, you state that on October 7, 2000 you were elected to serve on the Brusly Town Council for a four-year term to begin on January 1, 2001 for which you will be paid.

The issue of compensation is irrelevant for dual officeholding evaluation purposes. As stated previously in Attorney General Opinion Number 96-345, "compensation, in general, has no effect upon the permissiveness or disallowance of the simultaneous holding of offices under the law." More important are the types of employment and /or position to be held.

The dual officeholding laws, LA R.S. 42:61 et seq., apply in general to a person holding two positions at the same time. LA R.S. 42:63 (D) states in pertinent part:

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.

"Political subdivision," as defined by LA R. S. 42:62 (9) is any:

Parish, municipality, and any other unit of local government...authorized by law to perform governmental functions. In addition for the purposes of this part, mayors courts, justices 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.

Regardless of the classification, because these positions are within separate political subdivisions by virtue of LA R. S. 42:62 (9), as long as the position West Baton Rouge Parish Library Board of Trustees member is part time, you may simultaneously hold both positions without violating any dual officeholding provisions. The definition of "part time" as applied to dual officeholding, can be found at LA R.S. 42:62 (5), which states:

The period of time which a person works or is expected to work in an appointive office or employment which is less than the number of hours of work defined in this Section as full time.

Full time is defined by LA R.S. 42:62 (4) as:

The period of time which a person works or is expected to work in an appointive office or employment and which is at least seven hours per day of work and at least thirty-five hours per week of work.

Therefore, it is the opinion of this office that you may simultaneously hold the positions of West Baton Rouge Parish Library Board of Trustees member and Brusly Town Council member without violating dual officeholding provisions as long as the position of West Baton Rouge Parish Library Board of Trustees member is part time.

We hope this opinion addresses all of your concerns. If we can be of further assistance, please advise.

With kindest regards,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY:

ANDREW D. BENTON
Assistant Attorney General

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Syllabus

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LA R.S. 42:61 et seq.
LA R. S. 42:62 (4), (5) & (9)
LA R. S. 42:63 (D)

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Andrew D. Benton
Assistant Attorney General