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State of Louisiana

DEPARTMENT OF JUSTICE

Baton Rouge

70804-9005

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OPINION 02-0110

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Mr. John Overton
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78 DUAL OFFICEHOLDING

R.S. 42:63(D); R.S. 42:62(2)

Individual who holds appointive office pursuant to the provisions of a parish home rule charter may not concurrently hold elected municipal office.

Dear Mr. Overton:

You have recently requested this office to determine whether or not you may legally continue to serve in the full-time appointed office of the Director of the Department of Public Works if you are elected Mayor of the Town of Maringouin.

The Dual Officeholding and Dual Employment laws prohibit one from holding elective office and a full-time appointive office in a political subdivision of the state. R.S. 42:63(D) provides:

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. In addition no sheriff, assessor, or clerk of court shall hold any office or employment under a parish governing authority or school board, nor shall any member of any parish governing authority or school board hold any office or employment with any sheriff, assessor, or clerk of court. (Emphasis added).

An appointive office for purposes of dual officeholding is defined by R.S. 42:62(2) as:

(2) "Appointive office" means any office in any branch of government or other position on an agency, board, or commission or any executive office of any agency, board, commission, or department which is specifically established or specifically authorized by the constitution or laws of this state or by the charter or ordinances of any political subdivision thereof and which is filled by appointment or election by an elected or appointed public official or by a governmental body composed of such officials of this state or of a political subdivision thereof.

The office of the Director of the Department of Public Works is created by the terms of the Iberville Parish Home Rule Charter at Section 4-08. Section 4-01(B) of the charter characterizes the position as an "appointive office" and provides:

B. Except as provided in Section 8-09 "schedule of transition," directors of all departments created by or under this Charter shall be appointed by the President, subject to Council approval, and shall serve at the pleasure of the President.

Thus, it is the opinion of this office that you may not hold both positions if you are elected mayor of the Town of Maringuoin. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY: 
KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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