



RICHARD P. LEYBOUR
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
CIVIL DIVISION
BATON ROUGE
70804-9005

One American Place
301 Main Street, Suite 600
P.O. Box 94005
TEL.: (225) 342-7013
FAX: (225) 342-2090

May 1, 2003
OPINION 03-0151

Mr. Billy Fletcher
Rt. 1, Box 6001
Clayton, LA 71326

78 OFFICERS-Dual officeholding
LSA-R.S. 42:61, et seq.; LSA-R.S. 42:63(D); LSA-R.S. 42:62(9)
Elected police juror may not also serve as employee of waterworks district.

Dear Mr. Fletcher:

You state that you are presently employed on a full time basis by the Maitland Water System. You would like to also hold the elected office of police juror in Catahoula Parish. You ask whether the law permits you to hold both positions, if you are elected.

Your question prompts our review of the Louisiana Dual Officeholding and Dual Employment Law, LSA-R.S. 42:61, et seq., as applied to your factual circumstances. LSA-R.S. 42:63(D) provides as follows:

(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).

LSA-R.S. 42:62(9) further provides:

(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, registrars of voters, and all other elected parochial officials shall be separate political subdivisions. (Emphasis added).

Since the parish and the waterworks district, as a special district, are statutorily defined as separate political subdivisions, the prohibition of LSA-R.S. 42:63(D) quoted against the simultaneous holding of these offices above is inapplicable.

However, the prohibition of R.S. 42:64 is applicable in this instance. The Maitland Water System was created by the Catahoula Police Jury under the authority of LSA-R.S. 33:3811, et seq., which provides in pertinent part:

§3811. Division of parish into waterworks districts

Police juries may divide their respective parishes into one or more waterworks districts, with such name or number as the police jury may designate. The police jury may repeal any ordinance creating a waterworks district, or may abolish a waterworks district in its entirety or may change or alter the boundaries thereof; provided, however, that neither the existence nor the territorial boundaries of a waterworks district shall be changed in any manner which shall impair any obligations that may have been incurred by the waterworks district during the period of its existence.....(Emphasis added).

LSA-R.S. 42:64 providing for the holding of incompatible offices states:

§64. Incompatible offices

A. In addition to the prohibitions otherwise provided in this Part, no other offices or employments shall be held by the same person in combination if any of the following conditions are found to pertain and these prohibitions shall exist whether or not the person affected by the prohibition exercises power in conjunction with other officers:

(1) The incumbent of one of the offices, whether or not in conjunction with fellow officers, or employment has the power to appoint or remove the incumbent of the other, except that local governmental subdivisions may appoint members of the governing body to boards and commissions created by them and over which they exercise general powers as provided in Article VI, Section 15 of the Constitution of Louisiana. A board or commission so created may elect officers from its own membership, and if a joint commission of two parishes, except a joint commission that has as its function the operation and maintenance of a causeway and its related roadways, may also appoint a member of one of such parish's governing body to be its general superintendent.

Mr. Billy D. Fletcher
OPINION 03-0151
Page 3

Because LSA-R.S. 33:3811 allocates the authority to disband the waterworks district, of which you are an employee, to the police jury, the prohibitory language of LSA-R.S. 42:64 becomes applicable. Unfortunately, we conclude that you may not legally hold both positions simultaneously.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

BY: 
KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

KLK:ams