

April 26, 2004
OPINION 04-0035

Mr. George Holton
44260 Easy Street
Hammond, LA 70403

78 DUAL OFFICEHOLDING
R.S. 1060; R.S. 42:62(9)
Employee of parish hospital service district may hold local elective
office of parish councilman.

Dear Mr. Holton:

You have asked this office to advise you whether or not you may hold the elected office of parish councilman and continue in your full-time employment with the hospital service district. The hospital service district is a political subdivision, separate from the police jury, although created by the police jury. See R.S. 46:1060;¹ R.S. 42:62(9)². Under the provisions of R.S. 42:63(D)³ of the Louisiana Dual Officeholding and Dual Employment

¹ R.S. 46:1060 states:

§1060. District to constitute body corporate; powers

Any hospital service district thus created and named by any police jury of any parish in the state shall constitute a body corporate in law with all the powers of a corporation, shall have perpetual existence, shall have the power and right to incur debts and contract obligations, to sue and be sued, and to do and perform any and all acts in its corporate capacity and its corporate name necessary and proper for the carrying out of the objects and purposes for which the hospital service district was created. Such hospital service district shall have the right and power of expropriating property for the purpose of acquiring land for any purpose that it may find necessary in the operation of a hospital service district and may reacquire by donations or purchase, any existing hospital facility in the district. It shall also have the power and authority to acquire any and all necessary equipment and buildings for the purpose of performing the objects for which it is formed, and shall own all sites and physical facilities which are acquired either by donation, purchase, expropriation, exchange and otherwise in full ownership.

²R.S. 42:62(9) states:

(9) "Political subdivision" means a parish, 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.

³R.S. 42:63(D) states:

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).

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Law a person elected to local office may not hold full-time employment in the same political subdivision in which he holds elective office. In the alternative, a local elected official may be employed in a separate local political subdivision, whether full-time or part-time.

We conclude you may continue to hold both positions simultaneously. In accord are Attorney General Opinions 00-393 and 83-131, copies attached.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Date Received:
Date Released: April 26, 2004

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL