

February 25, 2004
OPINION 04-0040

Ms. Dale N. Atkins
Clerk of Civil District Court, Orleans Parish
421 Loyola Avenue, Room 402
New Orleans, LA 70112

Dear Ms. Atkins:

In response to your inquiry of recent date, the law does not prohibit the Clerk of the Civil District Court for the Parish of Orleans from contracting to provide part-time legal services to a state board or commission.

Of potential concern is R.S. 42:63(D) of the Louisiana Dual Officeholding and Dual Employment Laws, R.S. 42:61, et seq., providing in part:

“No person holding an elective office in a political subdivision of this State 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”

A clerk of court, holding elective office, would be prohibited from holding “employment in the government of this state.” R.S. 42:62(3) defines “employment” as:

“any job compensated on a salary or per diem basis, other than an elective or appointive office in which a person is an employee of the State government or of a political subdivision thereof.”

However, a person who has a contract to provide professional services does not hold “employment” as defined in R.S. 42:62(3) and thus R.S. 42:63(D) is not violated.

We conclude you may continue as clerk of court and contract to perform legal services for a state board or commission. Attached is Attorney General Opinion 91-449, which reaches the same conclusion.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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OPINION 04-0040

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R.S. 42:63(D); R.S. 42:61, et seq.; R.S. 42:62(3); in R.S. 42:62(3)

State law does not prohibit the Orleans Parish Civil Clerk of Court from contracting with a state board or commission to provide part-time legal services.

Mr. Dale N. Atkins
Clerk of Civil District Court, Orleans Parish
421 Loyola Avenue, Room 402
New Orleans, LA 70112

Date Received: February 5, 2004
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KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL