

February 9, 2005
OPINION NUMBER 05-0016

62-A
78

LEGISLATURE, Members of
OFFICERS-Dual Officeholding

Honorable William Daniel
State Representative
House District No. 68
17170 Perkins Road
Baton Rouge, LA 70810

La. R.S. 62(1); La R.S. 42:63C; La. R.S. 42:62(9); La R.S.
62(3)

A state representative may enter into a contract to perform professional, consulting and management services for a political subdivision of the state and not violate the dual officeholding and employment provisions of Louisiana Revised Statutes.

Dear Representative Daniel:

You have recently requested this office to issue an advisory opinion relative to dual officeholding, in particular, whether you as a state representative can enter into a contract to perform professional consulting and management services for the City of Baton Rouge/Parish of East Baton Rouge Government. You specifically ask whether there are any prohibitions or restrictions in the provisions of law relative to dual officeholding which might apply.

Your position as a state representative falls under the category of a state "elective office", which is defined as, "any position which is established or authorized by the constitution or laws of this state..., which is filled by vote of the citizens of this state..." La. R.S. 42:62(1). This state's dual officeholding laws prohibit a person holding an elective office in the government of this state from holding at the same time another full-time appointive office, or employment in the government of this state or in the government of the political subdivision thereof. La. R.S. 42:63C.

Further, a political subdivision is any parish, municipality, or other unit of local government authorized by law to perform government functions. La. R.S. 42:62(9). Clearly, the City of Baton Rouge/Parish of East Baton Rouge Government falls within this category.

"Employment" is defined 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." La. R.S. 42:62(3).

Previous opinions from this office have determined that when a political subdivision is not engaging a state representative as an employee on a salary or per diem basis then the relationship is one of merely contract, and the provisions of the dual officeholding statutes are inapplicable. See Attorney General Opinions No. 04-0101, 95-16 and 88-653.

With regard to your request, it is the opinion of this office that you, as a state representative, may enter into a contract to perform professional, consulting, and management services for the City of Baton Rouge/Parish of East Baton Rouge Government and not violate our state's dual officeholding laws.

I trust this sufficiently addresses your concerns. If our office may be of further assistance, please feel free to contact us.

Yours very truly,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By:

CHARLES H. BRAUD, JR.
Assistant Attorney General

CCF, Jr./CHB, Jr./sfj

SYLLABUS
OPINION NO. 05-0016

62-A LEGISLATURE, Members of
78 OFFICERS-Dual Officeholding

La. R.S. 62(1); La R.S. 42:63C; La. R.S. 42:62(9); La R.S. 62(3)

A state representative may enter into a contract to perform professional, consulting and management services for a political subdivision of the state and not violate the dual officeholding and employment provisions of Louisiana Revised Statutes.

Honorable William Daniel
State Representative
House District No. 68
17170 Perkins Road
Baton Rouge, LA 70810

DATE RECEIVED:

DATE RELEASED: February 9, 2005

Charles H. Braud, Jr.
Assistant Attorney General