

May 16, 2005
OPINION 05-0186

Honorable Derrick Shepherd
State Representative
House District No. 87
2009 Ames Boulevard
Marrero, LA 70072

78 – OFFICERS – Dual Officeholding
R.S. 33:4701, R.S. 42:62(9), R.S. 42:63(C)
State legislator may not hold employment with New Orleans
Regional Business Park.

Dear Representative Shepherd:

You have recently requested this office to advise you whether the executive director of the New Orleans Regional Business Park may seek election to the state legislature, and if elected, may he continue to serve as executive director of the Park?

The New Orleans Regional Business Park is a political subdivision of the state under the authority of R.S. 33:4703.¹ The chief executive director of the district receives a salary and office expense allowance as fixed and determined by the Board pursuant to R.S. 33:4702(C)(1) and (2).²

In response to your first question, in general an individual need not resign from his public employment to run for a political office, where the policies governing him employment do not prohibit him from seeking office, and where civil service rules are

¹ R.S. 33:4703(A) states in pertinent part: A. The New Orleans Regional Business Park, a special municipal district created under the provisions of this Part, shall constitute a body corporate in law, with all the powers of a corporation, and with all the powers and rights of a political subdivision of the state as provided by the constitution and laws of this state...

² R.S. 33:4702(C)(1) and (2) provide, pertinently: (1) The board of commissioners shall elect from its members a chairman, a vice chairman, a secretary-treasurer and such other officers as it may deem necessary at its first meeting; the chairman shall serve at the pleasure of the board. **The board of commissioners may also select one person as president**; three people as vice presidents to be in charge of marketing, operations, and finance respectively, **who shall not be members of the board, but who shall be legal Louisiana residents**.....(2) The secretary-treasurer shall furnish such bonds as may be required by the board of commissioners. The premium on the bond shall be paid out of the operating funds of the district. **The president shall be the chief executive officer of the district, shall manage its affairs and operation, subject to the rules and regulations and bylaws adopted by the council and the board. The president and three vice presidents shall receive such salary and office expense allowance, if any, as shall be fixed and determined by the board of commissioners.** (Emphasis added).

inapplicable. Should he campaign during office hours, he must take personal leave as dictated by his employer's policy manual.

The employment with the Park district falls within the definition of R.S. 42:62(9).³ Further, a state legislature holds elected office in the legislative branch of state government. See R.S. 42:62(7).⁴ In response to your second question, if elected to the state legislature, he must resign from his employment with the Business Park. R.S. 42:63(C) prohibits one from holding state elected office and employment with a political subdivision of the state. The provision states:

- C. No person holding an elective office in the government of this state shall at the same time hold another elective office, a full-time appointive office, or employment in the government of this state or in the government of a political subdivision thereof.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

By:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

CCF:Jr.:KLK:lrs

³ R.S. 42:62(9) defines political subdivision as: 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.

⁴ R.S. 42:62(7) provides: The legislative branch of state government includes the members of the Senate and the House of Representatives, the officers, agents, and employees of the legislature of either house or of a committee of either house thereof, the legislative auditor, legislative fiscal officer, or any other agency created by law which is primarily legislative in nature, and any other legislative officer, office, or instrumentality of the state.

SYLLABUS-----OPINION 05-0186

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R.S. 33:4701

R.S. 42:62(9)

R.S. 42:63(C)

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State Representative

House District 87

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KERRY L. KILPATRICK

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