

July 28, 2005
OPINION 05-0236

Mr. Jonathon C. Benda
P. O. Box 4412
Baton Rouge, LA 70802-5707

71-1-B MUNICIPALITIES-HOME RULE CHARTER
78 DUAL OFFICEHOLDING
R.S. 42:61 et seq., R.S. 33:103(C)(1)
Member of the Zachary Community School Board may also hold a part-time appointive position as a member of the Zachary Planning and Zoning Commission.

You ask this office to advise you whether you may serve as a member of the Zachary Community School Board and also serve as an appointed member of the Zachary Planning and Zoning Commission. Our response to your question is "yes."

First, the dual-officeholding laws, R.S. 42:61 et seq., do not prohibit you from holding both positions. Second, while R.S. 33:103(C)(1) requires members of a municipal planning commission to "hold no other public office," there is an exception applicable to your case. R.S. 33:104(F) states:

F. Where a parish or municipality has adopted a charter for local self-government or other home rule charter and such charter provides for the establishment of a planning commission or otherwise provides for the functions of a planning commission to be performed by the governing authority or other board or commission, the provisions of this Subpart concerning membership, appointment, organization, and structure shall not be applicable. In such case, any parish or municipality with a home rule charter may avail itself of the power and authority granted herein to a planning commission; however, nothing herein shall diminish any power or authority already granted by a home rule charter or other law.

The City of Zachary has adopted a home rule charter which provides for the establishment of a planning commission. See attached Chapter 19 of the home rule charter, referenced as your "exhibit B". Thus, the statutory prohibition of R.S. 33:103(C)(1) is removed. You may serve in both positions concurrently.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

KLK:ams

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Date Received:
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KERRY L. KILPATRICK
ASSISTANT ATTORNEY