

February 1, 2006
OPINION 06-0019

Mr. Garyland Wallis
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Terrebonne Parish Consolidated Government
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78 Dual Officeholding
R.S. 42:61, et seq.; R.S. 42:63(D); R.S.
40:539(C)(1); R.S. 42:62(4)(5)
An elected parish councilman may not
simultaneously hold full-time appointive office.

Dear Mr. Wallis:

You presented the following legal question for our review:

May a Terrebonne Parish Councilman also serve as Executive Director of
the Houma-Terrebonne Housing Authority?

The provisions of the Dual Officeholding and Dual Employment Laws, R.S. 42:61, et seq., govern our response. R.S. 42:63(D) is applicable and 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. . . . (Emphasis added).

Thus, one is prohibited from holding concurrently the local elected office of parish councilman and a full-time appointive office in any political subdivision.

For purposes of dual-officeholding, an "appointive office" is defined by R.S. 42:62(2), as follows:

(2) "Appointive office" means any office in any branch of government or other position on an agency, board, or commission or any executive office of any agency, board, commission, or department which is specifically established or specifically authorized by the constitution or laws of this state or by the charter or ordinances of any political subdivision thereof and which is filled by appointment or election by an elected or appointed

public official or by a governmental body composed of such officials of this state or of a political subdivision thereof.

We are of the opinion that the position of Executive Director of the housing authority constitutes an "appointive office" for the purposes of dual-officeholding. The position is "specifically established . . . by the laws of this state" and is "filled by appointment . . . by a governmental body" pursuant to R.S. 40:539(C)(1), which provides:

- C. (1) The authority shall select a secretary who shall be the executive director and chief executive and administrative officer of the authority. He shall serve at the pleasure of the authority. The authority shall fix the compensation of the executive director.

We attach for your review Attorney General Opinions 99-357, 95-178, 96-176, and 96-149, all of which conclude that the executive director of a housing authority holds an appointive office.

Because of the prohibition contained in R.S. 42:63(D), a councilman is prohibited from holding the full-time appointed position of executive director of the housing authority.

Further, Councilman Wayne Thibodeaux received a similar response in Attorney General Opinion 02-0142. This opinion is attached for your further review. Please note that in Opinion 02-0142, this office recalled Opinion 96-334, which you reference in your correspondence.

Finally, note that the law does not prohibit one from holding local elective office and part-time appointive office. "Full-time" and "part-time" are defined by R.S. 42:62(4) and (5) as follows:

(4) "Full-time" means the period of time which a person normally works or is expected to work in an appointive office or employment and which is at least seven hours per day of work and at least thirty-five hours per week of work.

(5) "Part-time" means the period of time which a person normally works or is expected to work in an appointive office or employment which is less than the number of hours of work defined in this Section as full time.

Thus, if the position of executive director is held on a part-time basis, the councilman may retain his elective office. If in fact the position is held on a full-time basis, Mr. Thibodeaux must decide whether to relinquish his elected office or his position with the housing authority. The question of whether he may contract with the authority once he resigns from his council position is made moot by his resignation.

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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

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