

April 20, 2006
OPINION 06-0031

Mr. Roger Brantley
Water Works District #7
6836 Colquitt Road
Keithville, LA 71047

78 OFFICERS-Dual officeholding
LSA-R.S. 42:64
Elected parish commissioner may not also hold full time
employment with the water works district.

Dear Mr. Brantley:

Your opinion request of recent date prompts our review of the Louisiana Dual Officeholding and Dual Employment Law, LSA-R.S. 42:61, et seq., as applied to your factual circumstances. You state that you are presently employed on a full time basis by the Caddo Parish Water Works District #7, and you desire to seek the local elective office of Caddo Parish Commissioner with the parish governing authority. You ask whether the law permits you to hold both positions, if you are elected.

LSA-R.S. 42:63(D) provides as follows:

(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. No such person 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. In addition no sheriff, assessor, or clerk of court shall hold any office or employment under a parish governing authority or school board, nor shall any member of any parish governing authority or school board hold any office or employment with any sheriff, assessor, or clerk of court. (Emphasis added).

LSA-R.S. 42:62(9) further provides:

(9) "Political subdivision" means 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. (Emphasis added).

Since the parish and the waterworks district, as a special district, are statutorily defined as

separate political subdivisions, the prohibitions of LSA-R.S. 42:63(D) are inapplicable.

However, LSA-R.S. 42:64 providing for the holding of incompatible offices states, in pertinent part:

§64. Incompatible offices

- A. In addition to the prohibitions otherwise provided in this Part, no other offices or employments shall be held by the same person in combination if any of the following conditions are found to pertain and these prohibitions shall exist whether or not the person affected by the prohibition exercises power in conjunction with other officers:
- (1) The incumbent of one of the offices, whether or not in conjunction with fellow officers, or employment has the power to appoint or remove the incumbent of the other.....

The authority of a parish to create a waterworks district is found at LSA-R.S. 33:3811, et seq. providing the following, in pertinent part:

§3811. Division of parish into waterworks districts

Police juries may divide their respective parishes into one or more waterworks districts, with such name or number as the police jury may designate. The police jury may repeal any ordinance creating a waterworks district, or may abolish a waterworks district in its entirety or may change or alter the boundaries thereof...

Because LSA-R.S. 33:3811 allocates the authority to disband the waterworks district, of which you are an employee, to the parish governing authority, (here, the Caddo Parish Commission) the prohibitory language of LSA-R.S. 42:64 becomes applicable. Unfortunately, we conclude that you may not legally hold both positions simultaneously.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Date Received:
Date Released: April 20, 2006

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