

May 25, 2006  
OPINION 06-0115

Ms. Carolyn Rhodes  
3027 Tyler Street  
Merryville, LA 70653

78 DUAL OFFICEHOLDING  
R.S. 42:63(D); R.S. 40:1497; R.S. 42:62  
Secretary of parish fire protection district board may also hold the local  
elected office of town alderman.

Dear Ms. Rhodes:

You have asked this office to advise whether you may serve in the elected office of alderman for the Town of Merryville and retain your appointed, part-time office of Secretary to the Beauregard Fire Protection District No. 1 Board.

The Louisiana Dual Officeholding and Dual Employment laws only prohibit one from holding elective office and a full-time appointed office in a political subdivision of the state. R.S. 42:63(D) 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. 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).

The law does not prohibit one from holding part-time appointive office and local elected office, which is the factual situation presented in the instant matter. The terms "appointive office", "full-time", "part-time" and "political subdivision" are all within the definitional portion of R.S. 42:62, providing pertinently:

(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.

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(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.

\* \* \* \* \*

(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.

The position of Secretary constitutes "appointive office" as it is established by R.S. 40:1497:

§1497. First meeting; organization; election of secretary and treasurer

The parish governing authority shall fix the time and place for the first meeting of the board. At this meeting the board shall organize and shall elect a secretary and a treasure or a combined secretary-treasurer. The persons filling these offices may, but need not, be members of the board.

Again, as the position of Secretary is part-time, the law does not prohibit you from holding simultaneously local elected office.

Very truly yours,

CHARLES C. FOTI, JR.  
ATTORNEY GENERAL

BY:

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KERRY L. KILPATRICK  
ASSISTANT ATTORNEY GENERAL

Ms. Carolyn Rhodes  
OPINION 06-0115  
Page 3

KLK:ams  
OPINION 06-0115

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Ms. Carolyn Rhodes  
3027 Tyler Street  
Merryville, LA 70653

Date Received:  
Date Released: May 25, 2006

KERRY L. KILPATRICK  
ASSISTANT ATTORNEY GENERAL