

June 28, 2006
OPINION 06-0146

Mr. Robert A. Moore
Assistant District Attorney
100 Courthouse Drive, Room 100
Arcadia, LA 71001

78 DUAL OFFICEHOLDING
R.S. 42:63; R.S. 42:62
Alderman may serve as part-time appointed commissioner for
parish fire protection district board.

Dear Mr. Moore:

You have asked this office to advise you whether an elected alderman for the Village of Bryceland may also serve as a member of the North Bienville Parish Fire Protection District Board.

To resolve your question, reference to the following provisions of R.S. 42:63, dealing with dual officeholding, is necessary:

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).

“Elective office”, “appointive office”, “full-time”, and “part-time” are defined by LSA-R.S. 42:62 as follows:

(1) “Elective office” means any position which is established or authorized by the constitution or laws of this state or by the charter or ordinances of any political subdivision thereof, which is not a political party office and which is filled by vote of the citizens of this state or of a political subdivision thereof.

(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.

(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.

An alderman holds local elective office. A member of the board of commissioners of the fire protection district holds part-time appointive office. The law does not prohibit this arrangement, as the second position is held on a part-time basis.

The appointment to the fire protection district board is made pursuant to R.S. 40:1496(B), stating:

§1496. Appointment of members of board; term; vacancies

- A. The board of commissioners shall consist of five members.
- B. In the case of a district comprising all or part of a single parish, members shall be appointed as follows:
 - (1) In the case where no municipality is included within the boundaries of a district lying within a single parish, the parish governing authority shall appoint the five members. The members so appointed shall elect the chairman of the board.

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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Date Received:
Date Released: June 28, 2006

KERRY L. KILPATRICK
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