

October 23, 2006
OPINION 06-0237

Honorable Jerry Trabona
Chief of Police
Amite City Police Department
101 Oak Street
Amite, LA 70422

78 DUAL OFFICEHOLDING

R.S. 42:62(3), R.S. 42:62(9), R.S. 42:63(D), R.S.
40:2405(2)

An elected member of the Amite city council may work as a reserve police officer for the Amite police department without violating the dual officeholding statutes as he receives no compensation in the latter position.

Dear Chief Trabona:

You have asked this office to advise whether an elected member of the Amite City council may also serve as an unpaid reserve officer for the Amite police department.

The statutes which are pertinent to your inquiry are R.S. 42:62(3), R.S. 42:62(9) and R.S. 42:63(D) providing respectively:

(3) "Employment" means any job compensated on a salary or per diem basis, other than an elective or appointive office, in which a person is an employee of the state government or of a political subdivision thereof.

(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 the 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.

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.

Pursuant to R.S. 42:63(D), a member of the city council may not be employed as a police officer by the same municipality. However, as this individual is receiving no compensation he is not considered "employed" as defined by R.S. 42:62(3). Thus, the limitations of the dual officeholding statutes are inapplicable.

Note that a similar conclusion was reached in previous opinions issued by this office. In Attorney General Opinion 91-323, we concluded that a member of the Bossier City Council may work as an unpaid reserve police officer for the City of Bossier. Further, in Attorney General Opinions 06-0030 and 02-0249, this office concluded town councilmen may serve as volunteer town police officers because the latter positions were unpaid. Copies of these opinions are attached for your review.

Finally, note that all those who serve as peace officers must meet the requirements of R.S. 40:2405(2), stating:

(2) In addition, any person employed or commissioned as a peace officer, reserve peace officer, or part-time peace officer prior to July 1, 1998, including those persons employed as such prior to January 1, 1986, who has not satisfactorily completed a basic firearms training program, shall do so no later than August 1, 1999. All other such persons who begin employment subsequent to July 1, 1998 shall satisfactorily complete a basic firearms training program prescribed by the council within one calendar year from the date of initial employment. Any person who does not comply with the provisions of this Paragraph shall be prohibited from exercising the authority of a peace officer, reserve peace officer, or part-time peace officer; however, such persons shall not be prohibited from performing administrative duties.

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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

KLK:arg

SYLLABUS

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Date Received:

Date Released: October 23, 2006

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL