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ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

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OPINION 13-0016

77 OFFICERS—Local & Municipal; Selection, Qualifications
& Tenure; vacancies
78 DUAL OFFICEHOLDING

La. R.S. 33:321, *et. seq.* La. R.S. 33:423 La. R.S. 42:61

Honorable Earnest Anderson, Jr.
Chief of Police
931 Bryan Street
P.O. Box 118
Cottonport, Louisiana 71327

A Lawrason Act chief of police may engage in part time private employment during his off-duty hours.

Dear Chief Anderson:

Our office received your request for an opinion regarding whether you may work part time at a liquor store or convenience store while serving as the elected chief of police for the Town of Cottonport.

The Town of Cottonport is a political subdivision of the State of Louisiana operating under and governed by the Lawrason Act, La. R.S. 33:321, *et seq.* The Act governs all municipalities that are not run by a recognized exception such as a home rule charter or a special legislative charter.¹

La. R.S. 33:423 outlines the duties of a chief of police in a Lawrason Act municipality, and provides in pertinent part:

- A. The marshal shall be the chief of police and shall be *ex officio* a constable. He shall have general responsibility for law enforcement in the municipality, and shall be charged with the enforcement of all ordinances within the municipality and all applicable state laws. He shall perform all other duties required of him by ordinance. In those municipalities governed by the provisions of this Part, R.S. 33:321 *et seq.*, which have a chief of police elected by the qualified voters thereof, he shall make recommendations to the mayor and board of aldermen for appointment of police personnel, for the promotion of officers, to effect disciplinary action, and for dismissal of police personnel. Such nominations or recommendations are to be made

¹ La. R.S. 33:321.

regardless of race, color, disability, as defined in R.S. 51:2232(11), or creed.

Our office has previously opined that nothing in the Lawrason Act prohibits an elected chief of police from holding private employment in his off-duty time. La. Atty. Gen. Op. No. 93-777. It is important to note that the board of aldermen could adopt an ordinance establishing the specific duties and responsibilities for the chief of police that may in turn conflict with your private employment, but the board cannot completely restrict the chief of police from holding private employment altogether. La. Atty. Gen. Op. No. 02-56.

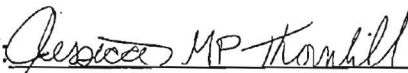
Further, your private part time employment and your position as chief of police do not appear to be prohibited by the Dual Officeholding and Dual Employment Law, La. R.S. 42:61, *et seq.*, as this law is concerned with situations where "a public official or employee holds two or more public offices or public jobs." La. R.S. 42:61. (emphasis added). Although the position of chief of police in a Lawrason Act municipality is an elected position,² the other private employment positions you may wish to hold simultaneously are clearly not public positions. We are of the opinion, therefore, that the restrictions of La. R.S. 42:61 *et seq.*, do not come into play.

While there does not appear to be a violation of the Dual Officeholding and Dual Employment law, any potential ethical questions concerning this matter arising under the Code of Governmental Ethics, La. R.S. 42:1111, *et seq.*, may properly be addressed by advisory ruling of the Louisiana State Board of Ethics. The Board may be contacted at P.O. Box 4368, Baton Rouge, Louisiana 70821, or by phone at 225-219-5600 to request such an advisory ruling.

In conclusion, it is the opinion of this office that the Lawrason Act and the Dual Officeholding and Dual Employment Law do not appear to prohibit an elected chief of police from simultaneously holding additional private off-duty employment. We hope that this opinion adequately addresses the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

BY: 
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JDC: JMPT

² La. R.S. 33:385.1.