



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

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

MAR 12 2013
OPINION 13-0028

Mr. Luke Mitchell
713 E. Carroll
P.O. Box 1350
Coushatta, Louisiana 71019

22 DISTRICT & PROSECUTING ATTORNEYS
78 DUAL OFFICEHOLDING

La. Const. art. V, § 26(A) La. R.S. 42:61, *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a part time assistant district attorney from working as the city attorney through his private practice.

Dear Mr. Mitchell:

You have requested an opinion of the Attorney General as to whether you, an Assistant District Attorney for the 39th Judicial District, can also continue your private practice work as the City of Coushatta's Attorney.

The provisions of the Dual Officeholding and Dual Employment Law, found at La. R.S. 42:61 *et seq.*, govern questions concerning the ability to hold two or more public offices and/or positions simultaneously. Note first that the municipality of Coushatta and the office of the district attorney are considered separate political subdivisions of the state as defined by La. R.S. 42:62(9).¹

If the position with the City of Coushatta is contractual,² the dual officeholding and dual employment provisions would not be affected. See La. Atty. Gen Op. No. 03-0428. We find the law does not prohibit an assistant district attorney from providing contract legal services to the city government.

On the other hand, if the position you seek to hold with the City of Coushatta is actual employment it would invoke the Dual Officeholding and Dual Employment provisions. Such a position would be characterized as part time local employment.³

¹ The dual officeholding law defines "political subdivision" as 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. La. R.S. 42:62(9).

² The dual officeholding law defines "employment" as any job compensated on a salary or per diem basis, other than an elective or appointive office or employment, in which a person is an employee of state government or of a political subdivision thereof. La. R.S. 42:62(3).

³ The dual officeholding law defines "part time" as 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. La. R.S. 42:62(5).

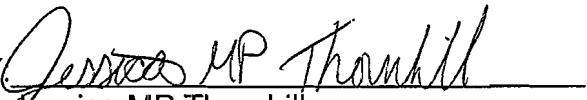
As to your position as assistant district attorney, it is an "appointive office"⁴ for purposes of a dual officeholding analysis because the position is established by both constitutional provision and is appointed by the district attorney. See La. Const. Art. V, § 26(A), providing that "a district attorney may select assistants as authorized by law." Further, based on the information you provided this position is part time.

The Dual Officeholding and Dual Employment provisions do not prohibit a person from holding a part time local appointive position and part time local employment in separate political subdivisions. Therefore, it is permissible for you to work for the City of Coushatta while serving as an Assistant District Attorney for the 39th Judicial District.

Please note that our expressed opinion relative to state law is limited to an examination of the dual officeholding provisions. We hope that this opinion has adequately addressed 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 
Jessica MP Thornhill
Assistant Attorney General

JDC: JMPT

⁴ The dual officeholding law defines "appointive office" as 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. La. R.S. 42:62(2).