



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

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

April 13, 2015
OPINION 15-0009

Honorable Brian K. Anderson
Justice of the Peace
Ward 3, Caddo Parish
P.O. Box 1394
Blanchard, Louisiana 71009

57 JUSTICES OF THE PEACE
78 OFFICERS-Dual Officeholding
107 SHERIFFS - Constables & Marshals

La. R.S. 13:2582; La. R.S. 42:61 *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full-time police officer from simultaneously holding the elective office as a justice of the peace. However, because an elected justice of the peace is governed by the Code of Judicial Conduct, the Judiciary Commission should be consulted for resolution of the issue.

Dear Mr. Anderson:

You have requested an opinion of the Attorney General wherein you ask if a justice of the peace may also work as a full-time police officer for the Town of Blanchard.

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. Classifying the correct nature of the positions held is essential for the purposes of applying the dual officeholding provisions.

Based on the information you provided, your position as a police officer for the Town of Blanchard is classified as full-time¹ local employment.² A justice of the peace "shall be elected at the congressional election for terms of six years by the qualified voters within the territorial limits of their jurisdiction" pursuant to La. R.S. 13:2582(B). Under La. R.S. 42:62(9), a justice of the peace court is defined as a "political subdivision" for purposes of the dual officeholding provisions.³ Thus, a justice of the peace holds elected office in

¹ The dual officeholding law defines "full-time" as "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." La. R.S. 42:62(4).

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, in which a person is an employee of the state government or of a political subdivision. La. R.S. 42:62(3). This office has previously observed that for purposes of the Dual Officeholding Law, a municipal police officer is considered to hold a position that is not one which is "specifically established or authorized by the constitution or laws of this state or by the charter or ordinances of any political subdivision thereof ... , and consequently is not an appointive office, but instead should be considered a position of employment. See La. Atty. Gen. Op. No. 94-46.

³ La. R.S. 42:62(9) provides:

"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 court, justice of the peace courts, district attorneys, sheriffs, clerks of court, coroners, tax assessors,

the political subdivision of the justice of the peace ward or district court from which he is elected.

The most applicable section of the Dual Officeholding and Dual Employment Law to your situation is La. R.S. 42:63(D), which provides in pertinent part:

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....

While La. R.S. 42:63(D) prohibits an elected official from holding employment in the same political subdivision of the state, the statute does not prohibit one from holding an elected office and employment in separate political subdivisions of the state. For this reason, it is the opinion of this office that La. R.S. 42:63(D) does not prohibit you from holding full-time employment as a municipal police officer while holding the local elective office of justice of the peace because the offices are held in different political subdivisions.

We also point out that the position of police officer in the Town of Blanchard is not subject to civil service rules and restrictions prohibiting a classified police officer from running for political office. The provisions of La. R.S. 33:2531 *et seq.* establish fire and police civil service for those municipalities which have a population of not less than seven thousand and not more than thirteen thousand, making these provisions inapplicable to the Town of Blanchard, which had a population of 2899 according to the 2010 Census.⁴

Please be advised that justices of the peace are governed by the Code of Judicial Conduct, which is within the authority of the Judiciary Commission. As observed by this office in La. Atty. Gen. Op. Nos. 94-619 and 90-604, a town police officer may not concurrently hold office of the justice of the peace unless approved by the Judiciary Commission of the Supreme Court. Therefore, we suggest that you contact the Judiciary Commission, 601 St. Charles Avenue, New Orleans, LA 70130, phone (504) 568-8299, regarding your inquiry as to whether it would violate the Canons of the Code of Judicial Conduct to hold both positions at the same time.

registrars of voters, and all other elected parochial officials shall be separate political subdivisions.

⁴ Retrieved January 29, 2015 from <http://censusviewer.com/city/LA/Blanchard>.

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,

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ATTORNEY GENERAL

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JDC:ECD