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

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OPINION 15-0055

Ms. Lea Anne Batson
Parish Attorney
Office of the Parish Attorney
P.O. Box 1471
Baton Rouge, LA 70821

78 Dual Officeholding

La. R.S. 42:61 *et seq.* and La. R.S. 18:51 *et seq.*

The provisions of Section 2.03 of the Plan of Government of the Parish of East Baton Rouge and the City of Baton Rouge do not prohibit a former member of the Council from holding the position of the Registrar of Voters for two years thereafter as the office of Registrar is not an office of profit under the Parish of East Baton Rouge or the City of Baton Rouge or any unit of local government therein.

Dear Ms. Batson:

Our office received your request for an opinion regarding whether the Metropolitan Council of the City of Baton Rouge and Parish of East Baton Rouge ("Council") may appoint one of its current members as Registrar of Voters for East Baton Rouge Parish ("Registrar"). You have indicated that the council member would resign prior to assuming the office of Registrar, should he or she be appointed, and therefore would not hold both positions simultaneously.

Your specific question is whether the Plan of Government of the Parish of East Baton Rouge and the City of Baton Rouge ("Plan") prohibits a former member of the Council from appointment to the office of Registrar.

Section 2.03 of the Plan, in pertinent part, provides:

No member of the Metropolitan Council or the Mayor-President shall, while he holds such office, hold any other office of profit under the United States, the State of Louisiana or any political subdivision thereof, except that of notary public or an office in the National Guard or the military or Naval Reserve in the United States. No member shall, during the term for which he was elected and two years thereafter, be appointed to any office of profit under the Parish of East Baton Rouge or the City of Baton Rouge, or any unit of local government therein. . . . (emphasis added).

The first sentence of Section 2.03 of the Plan is a broad prohibition, subject to specific exceptions, on an individual holding elected office as a council member or Mayor-President and holding any other office of profit under the United States, the State of Louisiana, or a political subdivision thereof. This, along with other provisions of state law and the Louisiana Constitution, prohibit a council member from also holding office as

Registrar of Voters. See La. Const. art. XI, § 5; La. R.S. 18:63; La. R.S. 42:63(D); La. R.S. 42:64(A)(1); and La. R.S. 42:64(A)(6). The second sentence of Section 2.03, however, provides a restriction during the term of office and two years thereafter on the appointment of a council member or the Mayor-President to an office of profit under the City or Parish of East Baton Rouge. Therefore, your qualification that the council member would resign prior to the holding both offices is significant, as it makes only the second sentence of Section 2.03 pertinent.

The office of Registrar is established by La. Const. art. XI, § 5 and governed by the provisions of La. R.S. 18:51 *et seq.* The Registrar is appointed by the parish governing authority of the parish pursuant to La. R.S. 18:51(A) and subject to removal by the Board of Election Supervisors pursuant to La. R.S. 18:53. The Registrar is required to file a bond with security, in favor of the Governor, with the State Treasurer for the faithful performance of his duties pursuant to La. R.S. 18:54. The office of Registrar is not an office of profit under the Parish of East Baton Rouge or the City of Baton Rouge or any unit of local government therein. It is therefore the opinion of this office that Section 2.03 of the Plan would not prohibit a former member of the Council from appointment to the office of Registrar during term for which he was elected and two years thereafter as the office of Registrar is not an office of profit under the Parish of East Baton Rouge or the City of Baton Rouge or any unit of local government therein.

While we were not interpreting a charter provision, please note that in La. Atty. Gen. Op. No. 04-0347, we were presented with a similar factual scenario, where a police juror intended to resign from the police jury to seek appointment as Registrar and our office concluded that the appointment of the former police juror to the office of Registrar was permissible.

Please note that our expressed opinion relative to state law is limited to an examination of the Plan of Government of the Parish of East Baton Rouge and the City of Baton Rouge. Our opinion does not address the potential applicability of the provisions of the Louisiana Code of Governmental Ethics, La. R.S. 42:1111, *et seq.* We recommend that the Louisiana State Board of Ethics be contacted for a ruling on this matter. Advisory rulings addressing questions under the Ethics Code are within the jurisdiction of the Louisiana State Board of Ethics. The Board may be contacted at the following address: P.O. Box 4368, Baton Rouge, LA 70821, phone: 225-219-5600.

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,

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