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ATTORNEY GENERAL

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

December 23, 2015
OPINION 15-0160

Chief Quint J. Liner
Terrebonne Parish Fire
Protection District #10
1767 Bayou DuLarge Road
Theriot, LA 70397

78 Dual Officeholding

La. R.S. 42:61 *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit the Fire Chief for the Terrebonne Parish Fire Protection District #10 from holding the part time position of Deputy Sheriff for Terrebonne Parish.

Dear Chief Liner:

Our office received your request for an opinion regarding whether the Fire Chief for the Terrebonne Parish Fire Protection District #10 ("District") may hold the part time position of Deputy Sheriff for Terrebonne Parish.

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.

The District is a, the Fire Chief for the District is appointed by the Board of Commissioners. You indicate that your normal working hours as Fire Chief are 7:30 A.M. to 4:00 P.M. fire protection district created pursuant to La. R.S. 40:1491 *et seq.* The District is governed by a Board of Commissioners.¹ According to the information provided to this office Monday through Friday. The position of Fire Chief for the District is classified as a "full time" "appointive office" for purposes of the Dual Officeholding Laws.²

¹ La. R.S. 40:1496.

² "Full time" means 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). "Appointive office" means 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).

The Sheriff of Terrebonne Parish, who is an elected official, is authorized to appoint deputies as necessary.³ The position of Sheriff Deputy is specifically established by the laws of the state. According to your request, you normally work as a Deputy Sheriff on the weekends and there is no conflict with your full time position with the District. The position of Sheriff Deputy is classified as a "part time" "appointive office" for purposes of the Dual Officeholding Laws.⁴

The most applicable provision of the Dual Officeholding and Dual Employment Law is La. R.S. 42:63(E), which provides in pertinent part:

No person holding a full-time appointive office or full-time employment in the government of this state or of a political subdivision thereof shall at the same time hold another full-time appointive office or full-time employment in the government of the state of Louisiana, in the government of a political subdivision thereof, or in a combination of these.

La. R.S. 42:63(E) does not prohibit the holding of a full time appointive office and the holding of a part time appointive office.⁵

Based on the applicable provisions of law, our prior opinions and the information you provided, it is the opinion of this office that the Fire Chief for the Terrebonne Parish Fire Protection District #10 is not prohibited by the Dual Officeholding provisions from holding the part time position of Deputy Sheriff for Terrebonne Parish.

Please note that our expressed opinion is limited to an examination of the state law relating to Dual Officeholding. Further, it does not address the potential applicability of the provisions of the Louisiana Code of Governmental Ethics, La. R.S. 42:1111 *et seq.* 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.

³ La. Const. art. V § 27 and LA. R.S. 13:5537.

⁴ "Part time" means 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). See also La. Atty. Gen. Op. Nos. 14-0196, 12-0222, 12-0175 and 12-0144.

⁵ Based on the information provided to our office, none of the specific "incompatible office" prohibitions contained in La. R.S. 42:64 are applicable to the factual scenario of your request.

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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