



Jeff Landry
Attorney General

State of Louisiana

DEPARTMENT OF JUSTICE
CIVIL DIVISION
P.O. BOX 94005
BATON ROUGE
70804-9005

February 11, 2016
OPINION 15-0175

Mr. Ben Otwell
374 Tew Lake Road
Jonesville, LA 71343

78 Dual Officeholding

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

The provisions of the Dual Officeholding and Dual Employment Law prohibit a Deputy Sheriff for Concordia Parish from serving as Police Juror for the Catahoula Parish Police Jury.

Dear Mr. Otwell:

Our office received your request for an opinion regarding whether you, as a Deputy Sheriff for Concordia Parish, are prohibited from holding the office of Police Juror ("Juror") for the Catahoula Parish Police Jury ("Police Jury").

The provisions of the Dual Officeholding and 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.¹ Classifying the correct nature of the positions held is essential for the purposes of applying the Dual Officeholding provisions.

The Sheriff of Concordia Parish is an elected official, who is authorized to appoint deputies as necessary.² The position of Deputy Sheriff is specifically established by the laws of the state.³ You have indicated that you are a Deputy Sheriff assigned to the Concordia Parish Corrections Facility as a maintenance officer. Your position as Deputy Sheriff is classified as a "full time" "appointive office" for purposes of the Dual Officeholding Laws.⁴

¹ Your request notes that you have been recently elected and have not taken your oath of office as Juror; therefore, you are not currently holding both positions at the same time. The Dual Officeholding and Dual Employment Law is applicable only when multiple public positions are held simultaneously.

² La. Const. art. V, § 27 and La. R.S. 13:5537.

³ La. R.S. 13:5537.

⁴ "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).

Catahoula Parish operates under a police jury form of government. The Police Jury is the governing authority of Catahoula Parish. A Juror holds a "part time" "elective office" for the purposes of the Dual Officeholding Laws.⁵

The Police Jury and the Sheriff of Concordia Parish are considered separate political subdivisions of the state for the purposes of the Dual Officeholding Laws.⁶

The most applicable provision of the Dual Officeholding and Dual Employment Law 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. In addition, no sheriff, assessor, or clerk of court shall hold any office or employment under a parish governing authority, nor shall any member of any parish governing authority or school board hold any office or employment with any sheriff, assessor or clerk of court.

La. R.S. 42:63(D) prohibits the simultaneously holding of an elected office in a political subdivision of the state and a full time appointive office in the government of a political subdivision. Additionally, La. R.S. 42:63(D) specifically prohibits a member of any parish governing authority from holding any office or employment with any sheriff. In similar factual situations, our office has consistently opined that a member of any parish governing authority is prohibited from holding any office or employment with any sheriff.⁷

Based on the applicable provisions of law, our prior opinions and the information you have provided, it is the opinion of this office that a Deputy Sheriff for Concordia Parish is prohibited by the Dual Officeholding Laws from holding the office of Police Juror for the Catahoula Parish Police Jury.

⁵ "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). "Elective office" means any position which is established or authorized by the constitution or laws of this state or by the charter or ordinances of any political subdivision thereof, which is not a political party office, and which is filled by vote of the citizens for this state or of a political subdivision thereof. La. R.S. 42:62(1).

⁶ "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 courts, justice of 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).

⁷ La. Atty. Gen. Op. Nos. 11-0198, 11-0130, 02-0430, 02-0292, 02-0222, 01-0124, 99-0164, 98-0209 and 87-0819.

Please note that our expressed opinion relative to state law is limited to an examination of the Dual Officeholding provisions. 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.

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,

JEFF LANDRY
ATTORNEY GENERAL

BY: Madeline S. Carbonette
Madeline S. Carbonette
Assistant Attorney General

JL: MSC:jr