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ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
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December 22, 2015
OPINION 15-0183

Mr. Gerald Boudreaux
Senator-Elect
District 23
P.O. Box 91245
Lafayette, LA 70509

78 Dual Officeholding

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

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a State Senator from holding the part time appointive office of Director for the Parks and Recreation Department for the Lafayette Parish City Parish Consolidated Government.

Dear Mr. Boudreaux:

Our office received your request for an opinion regarding whether you may hold the office of State Senator for District 23 and maintain your position as the Director for the Parks and Recreation Department ("Department") for the Lafayette Parish City Parish Consolidated Government. While we understand that your position as director is currently full time, you have indicated that you wish to continue on a part time basis. Thus you have asked us whether the Dual Officeholding and Employment Law prohibit you from simultaneously holding positions of part time Director for the Department and State Senator.

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 Lafayette Parish City Parish Consolidated Government ("City Parish") is a local governmental subdivision operating under a home rule charter under the authority of La. Const. art. VI, § 5. The City Parish is considered a separate political subdivision of the state for the purposes of the Dual Officeholding laws.² The Department is under the direction and supervision of the President for the City Parish ("President").³ The position of Director for the Department is an office which is specifically established by the

¹ Your request notes that you have been recently elected and have not taken your oath of office as Senator and therefore, 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 "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. La. R.S. 42:62(9).

³ Article IV, Section 4-01, Home Rule Charter for the Lafayette City-Parish Consolidated Government.

ordinances of the City Parish and filled by appointment by the President who is an elected public official.⁴ Based on the assumption that the position is part time, the position of Director for the Department is classified as a "part time" "appointive office" for purposes of the Dual Officeholding Laws.⁵

The legislative branch of state government includes members of the Senate.⁶ The position of State Senator is classified as a "part time" "elective office" for the purposes of the Dual Officeholding Laws.⁷

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

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

La. R.S. 42:63(C) prohibits the simultaneously holding of an elected office in the government of the state and a full time appointive office in the government of a political subdivision. Our office has consistently opined that a state legislator is prohibited by the Dual Officeholding provisions from holding a full time appointive office in a political subdivision of the state.⁸ However, since the position of Director for the Department is a part time appointive office, the prohibition of La. R.S. 42:63(C) is not applicable.

Based on the applicable provisions of law, our prior opinions and the information you provided, it is the opinion of this office that a State Senator is not prohibited by the Dual Officeholding provisions from holding the part time appointive office of Director for the

⁴ Article IV, Section 4-11, Home Rule Charter for the Lafayette City-Parish Consolidated Government.

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). "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 of 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).

⁶ The legislative branch of state government includes the members of the Senate and the House of Representatives, the officers, agents, and employees of the legislature of either house or of a committee of either house thereof, the legislative auditor, legislative fiscal officer, or any other agency created by law which is primarily legislative in nature, and any other legislative officer, office, or instrumentality of the state. La. R.S. 42:62(7).

⁷ "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).

⁸ La. Atty. Gen. Op. Nos. 08-0331, 01-0448, and 99-0335.

Parks and Recreation Department for the Lafayette Parish City Parish Consolidated Government.

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.

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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ATTORNEY GENERAL

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