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ATTORNEY GENERAL

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

December 21, 2015
OPINION 15-0185

Honorable Camille A. Morvant, II
District Attorney
Lafourche Parish
P.O. Box 451
Thibodaux LA 70302

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 Lockport Volunteer Fire Company from holding the office of Council Member for the Lafourche Parish Council.

Dear Mr. Morvant:

Our office received your request for an opinion indicating a concern has been raised about the Fire Chief for the Lafourche Parish Fire Protection District No. 2 serving as Council Member for the Lafourche Parish Council ("Council"). However, you have indicated that the position in question with you is the Fire Chief of the Lockport Volunteer Fire Company ("Company") not the Lafourche Parish Fire Protection District No. 2. We understand the Fire Chief is a volunteer and does not receive a salary from the Company or the Lafourche Parish Fire Protection District No. 2. Additionally, the Company does not receive public funds nor does the Company have a contract with the Lafourche Parish Fire Protection District No. 2 to provide fire protection services.

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

According to the information provided to our office, the Company is comprised of volunteer firemen. The Fire Chief for the Company is elected by the volunteer firemen of the Company. Our office has consistently opined that the provisions of the Dual Officeholding and Dual Employment Law are not applicable to volunteer firemen.² Therefore, the provisions of the Dual Officeholding and Dual Employment Law do not apply to a volunteer fireman who serves as Fire Chief for the Company.

¹ Your request notes that the Fire Chief has been recently elected and has not taken his oath of office as Member 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 La. Atty. Gen. Op. Nos. 11-0249, 08-0035, 07-0113 and 04-0002.

The Parish of Lafourche ("Parish") is a local governmental subdivision operating under a home rule charter under the authority of La. Const. art. VI, § 5. The Council is the governing authority of the Parish. A Member of the Council holds a "part time" "elective office" for the purposes of the Dual Officeholding Laws.³

According to the information provided to our office, the Company does not receive public funds from the Council nor does the Company have a contract with the Council to provide services to the Council.

The provisions of the Dual Officeholding and Employment Laws are only applicable to positions of public office or public jobs.⁴ As the position of Council Member is the only position of public office, the provisions of the Dual Officeholding and Employment Laws are not applicable to the two positions of concern.

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 Lockport Volunteer Fire Company is not prohibited by the Dual Officeholding provisions from holding the office of Council Member for the Lafourche Parish Council.

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 "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).

⁴ La. R.S. 42:61(A).

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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