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State of Louisiana

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

June 6, 2023
OPINION 23-0048

Mr. Jimmy Seibert
24404 Pope Rd.
Franklinton, Louisiana 70438

Dear Mr. Seibert:

78 Dual Officeholding

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

La. R.S. 46:1051, *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit an employee of the Washington Parish Hospital Service District No.1 from serving as a member of the Washington Parish Council.

Our office received your request for an opinion regarding whether an employee of the Washington Parish Hospital Service District No. 1 may serve as a member of the Washington Parish Council.

Pursuant to La. Const. art. X, § 22, the legislature has enacted laws regulating dual employment and defining, regulating, and prohibiting dual office holding in state and local government. 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 and Dual Employment Law.

The Washington Parish Hospital Service District No. 1 was created by the Washington Parish Council as a political subdivision of the State pursuant to the provisions of La. R.S. 46:1051, *et seq.* The Washington Parish Hospital Service District No. 1 is governed by a ten-member Board of Commissioners. The Commissioners are appointed by the Washington Parish Council.¹ According to the information provided to this office, the employee is employed full time by the Washington Parish Hospital Service District No.1 as a Chief Nursing Officer. The position of Chief Nursing Officer is classified as "full time" "employment" for the purposes of the Dual Officeholding and Dual Employment Law.²

Washington Parish operates under a home rule charter that provides for a president-council form of government.³ The Parish Council is composed of seven members who

¹ La. R.S. 46:1053(D).

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). "Employment" means any job compensated on a salary or per diem basis, other than an elective or appointive office, in which a person is an employee of the state government or of a political subdivision. La. R.S. 42:62(3).

³ Article I, Section 1-02, Washington Parish Home Rule Charter

are elected from each of the election districts located within Washington Parish.⁴ A member of the Washington Parish Council holds an "elective office" for the purposes of the Dual Officeholding and Dual Employment Law.⁵

The Washington Parish Hospital Service District No. 1 and Washington Parish are considered separate political subdivisions for the purposes of the Dual Officeholding and Dual Employment Law.⁶

The most relevant 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.

The prohibition of La. R.S. 42:63(D) is not applicable because the elective office and the employment are in separate political subdivisions.

Based on the applicable provisions of law and the information you have provided, it is the opinion of this office that the provisions of the Dual Officeholding and Dual Employment Law do not prohibit an employee of the Washington Parish Hospital Service District No.1 from serving as a member of the Washington Parish Council.

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

⁴ Article II, Section 2-01 Washington Parish Home Rule Charter.

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 the 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).

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

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JL: MSC