



Jeff Landry
Attorney General

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

August 1, 2023
OPINION 23-0069

Mr. John Green
2716 St. Marie Street
Meraux, LA 70075

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. C.C.P. Art. 331

La. Const. art. 5, § 27
La. R.S. 13:2583

The provisions of the Dual Officeholding and Dual Employment Law prohibit a full time Deputy Sheriff for St. Bernard Parish from serving as the constable of the justice of the peace court for St. Bernard Parish, Ward I.

Dear Mr. Green:

Our office received your request for an opinion regarding whether a full time Deputy Sheriff for St. Bernard Parish may serve as the constable of the justice of the peace court for St. Bernard Parish, Ward I.

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 St. Bernard Parish Sheriff is an elected public official, who is authorized to hire deputies as necessary.¹ The position of Deputy Sheriff is specifically established by the laws of the state.² According to the information provided to this office, the position of Deputy Sheriff is full time which is classified as a “full time” “appointive office” for purposes of the Dual Officeholding and Dual Employment Law.³

¹ La. Const. art. 5, § 27 and La. C.C.P. Art. 331.

² La. R.S. 13:5537.

³ “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 constable of the justice of the peace court for St. Bernard Parish, Ward I is elected by the qualified voters within the territorial limits of justice of the peace court pursuant to the provisions of La. R.S. 13:2583. The constable of the justice of the peace court for St. Bernard Parish, Ward I holds an “elective office” for the purposes of the Dual Officeholding and Dual Employment Law.⁴

The Sheriff of St. Bernard Parish and the justice of the peace court for St. Bernard Parish, Ward I are considered separate political subdivisions of the state for the purposes of the Dual Officeholding and Dual Employment Law.⁵

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

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 holding an elective office in a political subdivision and holding a full time appointive office in a separate political subdivision.

Based on the applicable provisions of law and the information you provided, it is the opinion of this office that the provisions of the Dual Officeholding and Dual Employment Law prohibit a full time Deputy Sheriff for St. Bernard Parish from serving as the constable of the justice of the peace court for St. Bernard Parish, Ward I.

Please note that our expressed opinion is limited to an examination of the state laws relating to Dual Officeholding and Dual Employment. 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

⁴ “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).

⁵ “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).

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