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

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OPINION 23-0077

Mr. Bryant Killen, Sr.
799 Hwy 568
Ferriday, LA 71334

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. R.S. 33:140.71, *et seq.*

La. R.S. 34:1501, *et seq.*

Dear Mr. Killen:

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit the Deputy Director of the Lake Providence Port Commission from also being employed as the part time Chief of Governmental Affairs of the Northeast Louisiana Railroad Development District.

Our office received your request for an opinion regarding whether you as the Deputy Director of the Lake Providence Port Commission may also serve as the part time Chief of Governmental Affairs of the Northeast Louisiana Railroad Development District.

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 purpose of applying the Dual Officeholding and Dual Employment Law.

The Lake Providence Port Commission was created pursuant to the provisions of La. R.S. 34:1501. The Lake Providence Port Commission is governed by a seven-member Board of Commissioners, the commissioners of which are appointed in accordance with the provisions of La. R.S. 34:1501(A). The Lake Providence Port Commission is authorized to employ necessary employees, which would include a Deputy Director.¹ According to the information provided to this office, the position of Deputy Director is a part time position which is classified as "part time" "employment" for purposes of the Dual Officeholding and Dual Employment Law.²

The Northeast Louisiana Railroad Development District was created by the Concordia Police Jury as a political subdivision of the state pursuant to the provisions of La. R.S. 33:140.71.³ The Northeast Louisiana Railroad Development District is governed by a

¹ La. R.S.34:1503(B).

² "'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). "'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 Ordinance 2022-01, Concordia Parish Police Jury.

nine-member Board of Commissioners, the commissioners of which are appointed in accordance with the provisions of La. R.S. 33:140.72. The Northeast Louisiana Railroad Development District is authorized to appoint employees, which would include a Chief of Governmental Affairs.⁴ According to the information provided to this office, the position of Chief of Governmental Affairs is a part time position which is classified as “part time” “employment” for purposes of the Dual Officeholding and Dual Employment Law.

The Lake Providence Port Commission and the Northeast Louisiana Railroad Development District are classified as separate political subdivisions 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(E), which provides in pertinent part:

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

Louisiana Revised Statute 42:63(E) does not prohibit holding two part time employments.

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 do not prohibit the Deputy Director of the Lake Providence Port Commission from also being employed as the part time Chief of Governmental Affairs of the Northeast Louisiana Railroad Development District.

Please note that our expressed opinion is limited to an examination of the state law 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 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 La. R.S. 33:140.73(A)(9).

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).

We hope that this opinion has adequately addressed 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
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