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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
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BATON ROUGE, LA
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February 22, 2024
OPINION 23-0086

Mr. Roderick Matthews
3412 Pumping Station Rd.
Greensburg, LA 70441

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. R.S. 29:727, *et seq.*

La. R.S. 33:1226

Dear Mr. Matthews:

The provisions of the Dual Officeholding and Dual Employment Law prohibit the Director of the St. Helena Parish Office of Homeland Security and Emergency Preparedness from serving as the State Representative for District 72.

Our office received your request for an opinion regarding whether the Director of the St. Helena Parish Office of Homeland Security and Emergency Preparedness may serve as the State Representative for District 72.

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.

St. Helena Parish operates under a police jury form of government. The St. Helena Parish Police Jury is composed of six members who are elected from each of the election districts located within St. Helena Parish.¹ The members of the Police Jury elect a President from their own number.² The St. Helena Parish Office of Homeland Security and Emergency Preparedness was established by the St. Helena Parish President pursuant to the provisions of La. R.S. 29:727(B). The St. Helena Parish President is authorized to appoint the Director of the St. Helena Parish Office of Homeland Security and Emergency Preparedness.³ According to the information provided to this office, the position of Director is full time. Because the position of Director of the St. Helena Parish Office of Homeland Security and Emergency Preparedness is a position which is specifically established by the laws of the state and

¹ Section 2-3, St. Helena Parish Code of Ordinances.

² La. R.S. 33:1226(A).

³ La. R.S. 29:728(A),

filled by the St. Helena Parish President, the position is classified as a "full time" "appointive office" for purposes of the Dual Officeholding and Dual Employment Law.⁴

The legislative branch of state government includes members of the House of Representatives.⁵ The position of State Representative is classified as an "elective office" 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(C), which provides:

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.

The prohibition of La. R.S. 42:63(C) is applicable because the position of Director of the St. Helena Parish Office of Homeland Security and Emergency Preparedness is a full time appointive office and the office of State Representative is an "elective office."

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 the Director of the St. Helena Parish Office of Homeland Security and Emergency Preparedness from serving as the State Representative for District 72.

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.

⁴ "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).

⁵ 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).

⁶ "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).

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,

LIZ MURRILL
ATTORNEY GENERAL

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LM: MSC