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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
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February 14, 2024
OPINION 23-0117

Mr. Jacob P. Talley
59040 Hwy. 1074
Bogalusa, Louisiana 70427

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. R.S. 25:211, *et seq.*

La. R.S. 40:1492, *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a member of the Washington Parish Library Board of Control, who also serves as a member of the Washington Parish Fire Protection District No. 7, from serving as a State Representative.

Dear Mr. Talley:

Our office received your request for an opinion regarding whether a member of the Washington Parish Library Board of Control, who also serves as a member of the Washington Parish Fire Protection District No. 7, may serve as a State Representative.

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.

Washington Parish operates under a home rule charter that provides for a president-council form of government.¹ The Washington Parish Public Library was created by the Washington Parish Council in accordance with the authority vested by La. R.S. 25:211, *et seq.*² The Washington Parish Public Library is governed by a Board of Control which consists of the president of Washington Parish, who is an ex-officio member, and five other members who are appointed by the Washington Parish Council.³ A member of the Washington Parish Library Board of Control, who is appointed by the Washington Parish Council, holds a "part time" "appointive office" for the purposes of the Dual Officeholding and Dual Employment Law.⁴

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

² Washington Parish Ord. of 11-14-45, §1, Section 15.1.

³ Washington Parish Ord. of 11-14-45, §3, Section 15.3.

⁴ "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). "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

The Washington Parish Council is authorized to create fire protection districts as political subdivisions pursuant to La. R.S. 40:1492. The Washington Parish Fire District Number 7 Board of Commissioners consists of not more than eight members who are appointed by the Washington Parish Council.⁵ A member of the Washington Parish Fire District Number 7 Board of Commissioners holds a "part time" "appointive office" for the purposes of the Dual Officeholding and Dual Employment Law.⁶

The legislative branch of state government includes members of the House of Representatives.⁷ The position of State Representative is classified as an "elective office" for the purposes of the Dual Officeholding and Dual Employment Law.⁸

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 not applicable because both of the appointive offices are part time.

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 a member of the Washington Parish Library Board of Control, who also serves as a member of the Washington Parish Fire Protection District No. 7, from serving as a State Representative.

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 La. R.S. 40:1496.12(F).

⁶ "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).

⁷ 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).

⁸ "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 of this state or of a political subdivision thereof. La. R.S. 42:62(1).

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.

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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