



LIZ MURRILL
ATTORNEY GENERAL

STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE, LA
70804-9005

July 17, 2024
OPINION 24-0052

Ms. Melonie Confair
13751 Hwy. 84
Logansport, LA 71049

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. R.S. 40:1492, *et seq.*

La. R.S. 33:1221, *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a member of the DeSoto Police Jury from serving as the Village of Stanley's appointee to the Board of Commissioners of the DeSoto Parish Fire District No. 5.

Dear Ms. Confair:

Our office received your request for an opinion regarding whether a member of the DeSoto Police Jury may serve as the Village of Stanley's appointee to the Board of Commissioners of the DeSoto Parish Fire District No. 5.

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.

DeSoto Parish operates under a police jury form of government.¹ The DeSoto Parish Police Jury is composed of eleven members who are elected from each of the election districts located within DeSoto Parish.² A member of the DeSoto Parish Police Jury holds an "elective office" for the purposes of the Dual Officeholding and Dual Employment Law.³

The DeSoto Parish Fire District No. 5 was created as a political subdivision by the DeSoto Parish Police Jury pursuant to the provisions of La. R.S. 40:1492, *et seq.* The District is governed by a five member Board of Commissioners.⁴ According to the information obtained by this office, the District includes two municipalities within its boundaries. Two members of the Board are appointed by the Police Jury, the governing authority of each municipality appoints a member, and one member is appointed by the

¹ La. R.S. 33:1221, *et seq.*

² Article II, Sec. 2-27, DeSoto Parish Police Jury Code.

³ "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).

⁴ La. R.S. 40:1496(A).

other four members.⁵ The Village of Stanley is a municipality included within the boundaries of the Fire District and appoints one member to the Board. A member of the Board Commissioners of the DeSoto Parish Fire District No. 5 holds a "part time" "appointive office" for the purposes of the Dual Officeholding and Dual Employment Law.⁶

The DeSoto Parish Police Jury and the Board of Commissioners of the DeSoto Parish Fire District No. 5 are separate political subdivisions for the purposes of the Dual Officeholding and Dual Employment Law.⁷

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.

La. R.S. 42:63(D) does not prohibit holding an elective office and a part-time appointive office in a separate political subdivision.

To address your concerns that a member of the Police Jury is serving as a member of the Fire District Board, we direct your attention to La. R.S. 42:64, which prohibits the holding of "incompatible offices." In particular, La. R.S. 42:64(A)(1) provides as follows:

The incumbent of one of the offices, whether or not in conjunction with fellow officers, or employment has the power to appoint or remove the incumbent of the other, except that local governmental subdivisions may appoint members of the governing body to boards and commissions created by them and over which they exercise general powers as provided in Article VI, Section 15 of the Constitution of Louisiana. . . .

La. R.S. 42:64(A)(1) is not applicable because the Board member of concern was appointed by the Village of Stanley not the Police Jury.

⁵ La. R.S. 40:1496(B)(3).

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 "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).

Based on the applicable provisions of law, the information you have provided, and the additional information obtained by this office, 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 DeSoto Police Jury from serving as the Village of Stanley's appointee to the Board of Commissioners of the DeSoto Parish Fire District No. 5.

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

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

BY: Madeline S. Carbonette
Madeline S. Carbonette
Assistant Attorney General

LM: MSC