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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 94005
BATON ROUGE, LA
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OPINION 24-0053

Mr. Jordan Zachary
26862 Jennifer Lane
Denham Springs, LA 70726

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
La. R.S. 13:2583

La. R.S. 33:321, *et seq.*

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full-time employee of the Brusly Police Department from serving as Constable of the Justice of the Peace Court for Livingston Parish, Ward 11.

Dear Mr. Zachary:

Our office received your request for an opinion regarding whether a full-time employee of the Brusly Police Department may serve as Constable of the Justice of the Peace Court for Livingston Parish, Ward 11.

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 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 Town of Brusly is governed by the Lawrason Act, La. R.S. 33:321, *et seq.* The Town of Brusly has adopted a mayor-board of aldermen form of government.¹ The Chief of Police is elected in accordance with the provisions of La. R.S. 33:381(B). The Chief of Police is authorized to appoint police personnel subject to the approval of the Mayor and the Board of Aldermen.² According to the information provided to this office, you are police officer in the unclassified service of the Brusly Police Department and work 40 hours per week on 12 hour shifts of 2-2-3. (2 days on, 2 days off and 3 days on). Your position is classified as "full time" "employment" for the purposes of the Dual Officeholding and Dual Employment Law.³

¹ La. R.S. 33:321.

² La. R.S. 33:423(A).

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). "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).

The Constable of the Justice of the Peace Court for Livingston Parish, Ward 11 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 holds an "elective office" for the purposes of the Dual Officeholding and Dual Employment Law.⁴

The Town of Brusly and Justice of the Peace Court for Livingston Parish, Ward 11 are 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 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.

La. R.S. 42:63(D) does not prohibit holding an elected office in a political subdivision and full time employment in a separate political subdivision.

This opinion is based on your current work schedule with the Brusly Police Department and your ability to perform the duties of Constable during the days and times you are not working for the Brusly Police Department. You should also be aware that while not applicable to the facts of this opinion, La. R.S. 14:138 prohibits public payroll fraud.

It is the opinion of this office that the provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full-time employee of the Brusly Police Department from serving as Constable of the Justice of the Peace Court for Livingston Parish, Ward 11, provided the times and distances involved do not prevent you from legally functioning in both positions.

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,

LIZ MURRILL
ATTORNEY GENERAL

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LM: MSC