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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
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OPINION 24-0054

Mr. Cote Licciardi
208 Alexander Drive
Hammond, LA 70401

78 Dual Officeholding

La. R.S. 42:61, *et seq.*
R.S. 36:401

La. R.S. 13:5537
La. Const. art. V, § 27

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full-time probation officer with the State of Louisiana Department of Public Safety and Corrections from serving as a part-time sheriff deputy, a part-time reserve sheriff deputy, a part-time police officer, or a part-time reserve police officer.

Dear Mr. Licciardi:

Our office received your request for an opinion regarding whether a full-time probation officer with the State of Louisiana Department of Public Safety and Corrections may serve as a part-time sheriff deputy, a part-time reserve sheriff deputy, a part-time police officer, or a part-time reserve police officer.

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.

The State of Louisiana Department of Public Safety and Corrections was created in accordance with the provisions of La. R.S. 36:401, *et seq.* A full-time probation officer holds "full time" "employment" for the purposes of the Dual Officeholding and Dual Employment Law.¹

A Sheriff, who is an elected official, is authorized to appoint Deputy Sheriffs.² Both a part-time Deputy Sheriff and a part-time reserve Deputy Sheriff hold a "part time"

¹ "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).

² La. Const. art. V, § 27 and La. R.S. 13:5537.

“appointive office” for the purposes of the Dual Officeholding and Dual Employment Law.³

A part-time municipal police officer holds “part time” “employment” for the purposes of the Dual Officeholding and Dual Employment Law.⁴ The provisions of the Dual Officeholding and Dual Employment Law are not applicable to a part-time municipal reserve police officer, who receives no compensation by salary or per diem.⁵

The Department of Public Safety and Corrections is part of the executive branch of state government for the purposes of the Dual Officeholding and Dual Employment Law.⁶ Sheriffs and municipalities are political subdivisions for the purposes of the Dual Officeholding and Dual Employment Law.⁷

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.

The prohibition of La. R.S. 42:63(E) is not applicable to the positions of concern.

³ “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 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). La. Atty. Gen. Op. Nos. 22-0096, 08-0040, 02-0292, and 90-521.

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).

⁵ La. Atty. Gen. Op. Nos. 21-0070, 19-0055, 16-0135, 14-0094, 13-0053, 07-0167, 06-0237, 02-0249 and 91-323.

⁶ The executive branch of state government includes . . . The executive branch shall also include the officers, members, agents, and employees of any department, office, agency, instrumentality, board, commission, or other entity created by the constitution or by law whose functions are not primarily legislative, judicial, or local in nature or operation. La. R.S. 42:62(6).

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 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, our prior opinions, 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 a full-time probation officer with the State of Louisiana Department of Public Safety and Corrections from serving as a part-time sheriff deputy, a part-time reserve sheriff deputy, a part-time police officer, or a part-time reserve police officer.

Please note that our expressed opinion 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