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STATE OF LOUISIANA
DEPARTMENT OF JUSTICE
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February 27, 2025
OPINION 24-0055

The Honorable Gerard Landry
Mayor of the City of Denham Springs
P.O. Box 1629
Denham Springs, LA 70727-1629

78 Dual Officeholding

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

The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full-time employee of Livingston Parish from serving as a member of the Denham Springs City Council.

Dear Mayor Landry:

Our office received your request for an opinion regarding whether a full-time employee of Livingston Parish may serve as a member of the Denham Springs City Council.

Question: Whether a full-time employee of Livingston Parish may serve as a member of the Denham Springs City Council.

Conclusion: The provisions of the Dual Officeholding and Dual Employment Law do not prohibit a full-time employee of Livingston Parish from serving as a member of the Denham Springs City Council.

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.

Livingston Parish operates under a home rule charter under the authority of La. Const. art. VI, § 5.¹ The charter provides for a president-council form of government.² The President is the chief executive officer and has the authority to appoint all parish government employees and appointive administrative officers provided for by or under the charter.³ According to the information provided to this office, the President appoints a full time Chief of Staff. You have concerns that this position may be considered an "appointive office" for the purposes of the Dual Officeholding and Dual Employment Law. An "appointive office" is defined as "any office specifically established or

¹ Article 1, Sec. 1-01, Livingston Parish Home Rule Charter.

² Article 1, Sec. 1-02, Livingston Parish Home Rule Charter.

³ Article 111, Sec 3-01 and Sec. 3-09(2), Livingston Parish Code of Ordinances

specifically authorized by the constitution or laws of the state or by the charter or ordinances of a political subdivision.” The office of Chief of Staff is not an “appointive office” as it is not specifically established or specifically authorized by the constitution or laws of the state or by the Livingston Parish charter or ordinances. The position of Chief of Staff is classified as “full time” “employment” for the purposes of the Dual Officeholding and Dual Employment Law.⁴

The City of Denham Springs is governed by the Lawrason Act, La. R.S. 33:321, *et seq.*⁵ The City of Denham Springs has adopted a mayor-city council form of government.⁶ A member of the Denham Springs City Council holds an “elective office” for the purposes of the Dual Officeholding and Dual Employment Law.⁷

Livingston Parish and the City of Denham Springs, a municipality within Livingston Parish, are considered separate political subdivisions for the purposes of the Dual Officeholding and Dual Employment Laws.⁸

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. 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. In addition, no sheriff, assessor, or clerk of court shall hold any office or employment under a parish governing authority, nor shall any member of any parish governing authority or school board hold any office or employment with any sheriff, assessor or clerk of court.

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). “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 Article 1, Sec. 2-1, City of Denham Springs Home Rule Charter.

⁶ Article 11-Mayor and City Council, Footnote (2), City of Denham Springs Home Rule Charter

⁷ “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).

⁸ “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).

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

In addition to the prohibitions found in La. R.S. 42:63, La. R.S. 42:64 prohibits holding "incompatible offices."⁹ Based on the facts presented to this office, the prohibitions found in La. R.S. 42:64 do not apply to the two positions.

You have raised concerns that holding the two positions could be a conflict of interest because the Chief of Staff makes many decisions regarding roadways, economic development, funding and other issues that affect the City of Denham Springs. The City is responsible for relocating utilities outside of the City limits on Parish roadway projects that are overseen and funded by the Chief of Staff. The Chief of Staff, as the liaison between the elected officials and governmental offices, would be involved in discussions and making decisions as to which municipalities would receive priority in the Parish roadway projects and other projects funded by the Parish. Additionally, the Chief of Staff handles public complaints and requests for assistance and can represent the Parish President at meetings which could cause endless conflicts between the two offices.

These may be valid concerns, however, our office contacted Mr. Jim Gilbert, who holds the two positions of concern, in order to clarify his duties as Chief of Staff. He stated that his duties do not include overseeing or approval of funds for relocation of utilities in Parish roadway projects or making decisions regarding which municipalities receive priority in Parish roadway projects. He does not step in for the Parish President and he does not make decisions on the transfer of funds from the Parish to municipalities.

In a letter addressed to this office, dated September 3, 2024, Parish President Randy Delatte stated that Mr. Gilbert handles the day to day operations of the internal departments and assists with various tasks as defined in his job description, but he does not possess any signing authority. He further stated that relocation of utilities for Parish roadway projects and any funding associated with the projects is overseen by the Parish Department of Public Works.

⁹ A. In addition to the prohibitions otherwise provided in this Part, no other offices or employments shall be held by the same person in combination if any of the following conditions are found to pertain and these prohibitions shall exist whether or not the person affected by the prohibition exercises power in conjunction with other officers: (1) 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 . . . (2) The incumbent of one office, whether or not in conjunction with fellow officers, or employment receives the oath and/or bond of the incumbent of the other. (3) The incumbent of one office, whether or not in conjunction with fellow officers, or employment is charged by law with instituting actions for penalties against the incumbent of the other office or employment. (4) The incumbent of one office, whether or not in conjunction with fellow officers, or employment is required by law to execute orders and follow directions given by the incumbent of the other office or employment. (5) One office, whether or not in conjunction with fellow officers, or employment is charged with auditing the accounts of or approving the budget of the other position. (6) Funds received by one office or employment are deposited with or turned over to the other office or position. La. R.S. 42:64(A).

You are also seeking guidance on when Mr. Gilbert should refrain from voting on issues presented to the City Council when the issue involves expenditures directly related to parish funding due to a conflict of interest.

There is no evident legal impediment to holding both positions under the Dual Officeholding and Dual Employment Law. There may be cause for concern that certain situations could cause a conflict of interest between the two positions and each situation would have to be addressed on an individual basis. This would not be an ethics violation unless he has a personal conflict of interest. Here, it could be create incompatible conflicts, but the Parish President can avoid them by managing his job duties.

Based on the applicable provisions of law and the information provided to this office, 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 Livingston Parish from serving as a member of the Denham Springs City Council.

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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