

**Louisiana Department of Justice
Office of the Attorney General**

Louisiana's Dual Officeholding Laws

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A Message from the Attorney General



The decision to serve the citizens of Louisiana is one of the most important choices you will ever make. As a candidate for public office, you are expected to uphold the constitution and laws of Louisiana during the qualifying and campaigning process.

The Attorney General's Office has developed this booklet in an effort to educate you on laws concerning dual office-holding and exemptions. This booklet is designed to explain Louisiana's laws on Public Officials or Employees holding two or more public offices or jobs.

Please read the laws in this booklet carefully. I trust that this material will be informative and helpful. If you have any questions, please call my office anytime at 225-326-6705. For more information regarding the Office of the Attorney General, please visit the website at www.agbuddycaldwell.com.

Respectfully yours,

James D. "Buddy" Caldwell
Attorney General

Table of Contents

Declaration of Policy	4
Purpose	5
Definitions	5
Prohibitions.....	6
Enforcement	6
Attorney General Opinions.....	7
Exemptions.....	7
Federal and State Government.....	11
Local Government	12

"It is essential to the maintenance of a democratic society that public officials and employees perform the public business in a manner which serves to promote and maintain in the general citizenry a high level of confidence and trust in public officials, public employees, and governmental decisions. The attainment of this end is impaired when a public official or employee holds two or more public offices or public jobs which by their particular nature conflict with the duties and interest of each other. The attainment of a high level of confidence and trust by the general citizenry in public officials, employees, and governmental decisions is further impaired by the excessive accumulation of governmental power which may result from public officials or employees holding two or more public offices or public jobs."

Louisiana Revised Statute, 42:61 – Declaration of policy

A. Purpose

The purpose of the dual officeholding laws is to implement a policy which will serve to maintain a high level of trust and confidence by the citizens of this state in our public officials, employees, and the governmental decisions of our government and our political subdivisions by defining and regulating dual employment and by defining, regulating and prohibiting dual officeholding.

B. Definitions for dual officeholding laws

Elective Office is one established or authorized by the constitution, state law, local charter or ordinance, filled by vote, but which is not a political party office.

Appointive office is an office in any branch of government or other position or executive office of an agency, board, or commission, or executive office of a department, established or authorized by the constitution, state law, local charter or ordinance, filled by appointment or election by an elected or appointed public official or governmental body.

Employment is any job compensated on a salary or per diem basis, other than an elective or appointive office, in which the person is an employee of the state government or a political subdivision.

Full time is at least seven hours per day and at least thirty-five hours per week of work in an appointive office or employment.

Part time is anything less than full time.

Political subdivision is 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. 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 are separate political subdivisions for dual officeholding purposes.

Executive Branch of State Government includes the governor, lieutenant governor, secretary of state, attorney general, treasurer, commissioner of agriculture, commissioner of insurance, superintendent of education, commissioner of elections, members of the State Civil Service Commission, the Public Service Commission, the Board of Regents,

the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, the State Board of Elementary and Secondary Education, the Board of Trustees for State Colleges and Universities, and the State Bond Commission, and all officers, agents, employees, or other persons holding or exercising an employment with them. Also includes any officer, member, agent, and employee 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.

Legislative Branch of State Government includes the members of the Senate and House of Representatives, officers, agents, and employees thereof or of a committee 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.

Judicial Branch of State Government includes all judges, employees, and agents of the supreme court, the judicial administrator, courts of appeal, district courts, including the civil and criminal district courts of Orleans Parish, parish courts, city courts, juvenile and family courts, and any other judicial office and instrumentality of the state, but does not include judges or employees of courts not enumerated in the dual officeholding laws.

C. Prohibitions

The legislature has set forth specific prohibitions in R.S. 42:63, and set forth additional prohibitions in the incompatible officeholding statute, R.S. 42:64.

In general, no individual may hold two full time positions or any two positions in which there may be an inherit conflict of interest. A part time position and a full time position will generally not constitute dual officeholding, nor will the holding of two part time positions, provided there is no conflict of interest.

Questions concerning conflicts of interest arising out of the holding of two public offices (or employments) may be answered in general by the charts included herein.

D. Enforcement

The attorney general, district attorney or any citizen of the state may file suit for a declaratory judgment against a person alleged to be holding incompatible offices or employments or a

combination that is prohibited by the dual officeholding laws, as provided in R.S. 42:65.

If the person is found in violation of the dual officeholding laws, the court can declare the office with the term first to expire or one of the employments vacant and enjoin the person from carrying out the duties of that office or employment. A person holding elective office, however, is required to continue to serve and perform the duties of his office until his successor has qualified.

The court may order the reimbursement of all pay or other compensation and all allowances received by the official or employee, not to exceed six months preceding the filing of the declaratory judgment, unless the person against whom a declaratory judgment is rendered obtained an opinion of the attorney general issued prior to the filing of the suit, stating that the combination of offices or employments are not incompatible, and are not in violation of the dual officeholding laws.

E. Attorney General Opinions

Whenever any person requests an opinion of the attorney general concerning the offices or employments covered by the dual officeholding laws, he shall provide information describing each of the employments or offices, the number of hours worked or normally expected to be worked by him per week for such employments or offices, and any other information the attorney general deems necessary for the issuance of the opinion.

Requests for an opinion may be submitted to the Attorney General's office, as follows:

Louisiana Department of Justice
Office of the Attorney General
P. O. Box 94005
Baton Rouge, LA 70804-9005

Questions raising ethical concerns under the Code of Governmental Ethics should be submitted to the Louisiana Board of Ethics, as follows:

Ethics Administration
2415 Quail Drive
Baton Rouge, LA 70808

F. Exemptions

1. The following classes of officials or employees are not prohibited from serving in other offices or employments:

- a. Notaries public

- b. Officers in the military service of the United States detailed to educational institutions in the state and persons serving in the National Guard or reserve military forces of the United States or of the state of Louisiana.
 - c. Delegates to and employees of any constitutional convention or any charter commission.
 - d. Presidential electors.
 - e. Persons serving on any board, commission, or committee which is solely advisory in nature.
 - f. The governor or his designee, when serving as a member of a state agency, commission, or other state entity in accordance with a provision of the constitution, laws resolutions, or executive order of this state.
 - g. Any official who holds another office by virtue of the office to which he is elected or appointed.
 - h. A board member of a community action agency.
 - i. Persons serving as district or state soil and water conservation committee members; and
 - j. The current administrator of the Jefferson pre-trial release program.
2. A school teacher or person employed in a professional educational capacity in a grade school, high school, other educational institution, parish or city school board is not prohibited from holding at the same time an elective or appointive office.
 3. A municipal officer or employee is not prohibited from holding another municipal office or employment, as authorized by R.S. 33:381(C).
 4. A municipal and/or parochial officer or employee is not prohibited from holding another municipal and/or parochial office or employment as specifically authorized by a legislative or home rule charter. But the dual officeholding laws do not authorize a municipal and/or parochial officer or employee to hold another municipal and/or parochial office or employment when prohibited by a home rule charter.

5. An elected police juror is not prohibited from being employed as a parish manager or assistant parish manager as authorized by R.S. 33:1236.1.
6. A coroner is not prohibited from holding another appointive office or employment in any governmental entity in the capacity of a physician.
7. The following persons are not prohibited from holding the position of assistant United States attorney when so designated for cooperative efforts in criminal prosecutions and without additional compensation:
 - a. The attorney general
 - b. Assistant attorneys general
 - c. District attorneys
 - d. Assistant district attorneys
 - e. City attorneys
8. A member of a board of a health care facility of the state or a political subdivision is not prohibited from also serving as an employee of a health care facility of the United States government.
9. An employee of the U.S. Postal Service is not prohibited from holding at the same time a local elective office in a village or town, if it has a population of 5,000 or less.
10. A person employed in the state classified civil service as a toll collector, whether full time or part time, is not prohibited from at the same time being employed as an emergency rural carrier with the U.S. Postal Service, provided such person was employed as a toll collector as of January 1, 1999.
11. An elected school board member is not prohibited from holding employment as a juvenile probation officer in a district court, as a parish prison warden, or as a deputy sheriff provided that such person, on September 7, 1979, held elective office as a school board member and at the same time held elective or appointive office in juvenile services of the district court, or held elective office as a school board member and at the same time held employment as a parish prison warden or as a deputy sheriff and has continued to so serve as a school board member and in juvenile services of the district court, or as a school board member and as a parish prison warden or a deputy sheriff. These provisions of the dual officeholding laws are not applicable, however, in any parish over 400,000 in population.

12. A mayor of a municipality with a population of not more than 5,000 who is a licensed physician is not prohibited from being employed in or appointed to any position for which a physician is required at the Lallie Kemp Regional Medical Center.
13. A deputy sheriff is not prevented from holding the office of either mayor or alderman of a municipality, with a population of 2,500 or less.
14. A deputy sheriff is not prohibited from holding the office of part-time constable of a justice of the peace court whose jurisdiction has a population of 15,000 or less according to the 1990 federal decennial census, or from holding the office of part-time constable or part-time marshal of a city court in a municipality with a population of 10,000 or less according to the 1990 federal decennial census, provide such person held both the office of deputy sheriff and the office of constable or marshal prior to January 1, 1997.
15. A chief of police of a municipality with a population of less than 5, 000 according to the 1990 federal decennial census is not prohibited from holding the office of deputy sheriff.
16. A person holding employment in the government of the state is not prohibited from holding at the same time an elective office in the government of a municipality of this state with a population of less than 6,500 according to the 1990 federal decennial census, unless the particular nature of such employment in combination with the duties and interests of such elective office is incompatible or found to be adverse to the public interest as provided in R.S. 42:61.
17. The clerk of court of Jefferson Parish is not prohibited from holding the clerk of court position provided in R.S. 13:2590.2.

Dual Officeholding and Dual Employment Prohibited and Regulated Relationships in Federal and State Government (LSA R.S. 42:61-66)

DUAL OFFICEHOLDING AND DUAL EMPLOYMENT	FEDERAL OFFICE OF EMPLOYMENT	STATE ELECTIVE OFFICE	STATE FULL-TIME APPOINTEE OFFICE	STATE PART-TIME APPOINTEE OFFICE	STATE FULL-TIME EMPLOYMENT	STATE PART-TIME EMPLOYMENT
STATE ELECTIVE OFFICE	PROHIBITED § 63 A	PROHIBITED § 63 C	PROHIBITED § 63 C	PROHIBITED EXCEPT IN SAME BRANCH § 63 B	PROHIBITED § 63 C2	PROHIBITED § 63 C2
LOCAL ELECTIVE OFFICE	PROHIBITED § 63 A	PROHIBITED § 63 C & D	PROHIBITED § 63 D	ALLOWED	PROHIBITED § 63 D2	PROHIBITED § 63 D2
STATE FULL-TIME APPOINTEE OFFICE	PROHIBITED § 63 A	PROHIBITED § 63 C	PROHIBITED § 63 E	PROHIBITED EXCEPT IN SAME BRANCH § 63 B	PROHIBITED § 63 E2	PROHIBITED EXCEPT IN SAME BRANCH § 63 B2
STATE PART-TIME APPOINTEE OFFICE	PROHIBITED § 63 A	PROHIBITED EXCEPT IN SAME BRANCH § 63 B	PROHIBITED EXCEPT IN SAME BRANCH § 63 B	PROHIBITED EXCEPT IN SAME BRANCH § 63 B	PROHIBITED EXCEPT IN SAME BRANCH § 63 B2	PROHIBITED EXCEPT IN SAME BRANCH § 63 B2
LOCAL FULL-TIME APPOINTEE OFFICE	PROHIBITED § 63 A	PROHIBITED § 63 C	PROHIBITED § 63 E	ALLOWED	PROHIBITED § 63 E2	ALLOWED
LOCAL PART-TIME APPOINTEE OFFICE	PROHIBITED § 63 A	ALLOWED	ALLOWED	ALLOWED	ALLOWED	ALLOWED
STATE FULL-TIME EMPLOYMENT	PROHIBITED § 63 A	PROHIBITED § 63 C2	PROHIBITED § 63 E2	PROHIBITED EXCEPT IN SAME BRANCH § 63 B2	PROHIBITED § 63 E	PROHIBITED EXCEPT IN SAME BRANCH § 63 B
STATE PART-TIME EMPLOYMENT	PROHIBITED § 63 A	PROHIBITED § 63 C2	PROHIBITED EXCEPT IN SAME BRANCH § 63 B2	PROHIBITED EXCEPT IN SAME BRANCH § 63 B2	PROHIBITED EXCEPT IN SAME BRANCH § 63 B	PROHIBITED EXCEPT IN SAME BRANCH § 63 B
LOCAL FULL-TIME EMPLOYMENT	PROHIBITED § 63 A	PROHIBITED § 63 C2	PROHIBITED § 63 E2	ALLOWED	PROHIBITED § 63 E	ALLOWED
LOCAL PART-TIME EMPLOYMENT	PROHIBITED § 63 A	PROHIBITED § 63 C2	ALLOWED	ALLOWED	ALLOWED	ALLOWED

1. Sheriff's, assessors, and clerks of court are prohibited from holding any office or employment under a parish governing authority or school board and vice versa.
2. A school teacher or other persons employed by a professional educational capacity in an educational institution or in a parish or city school board may at the same time hold an appointive or elective office.
3. A municipal officer or employee may hold another municipal office or employment such as authorized by R.S. 33:381C. If specifically authorized by a legislative or home-rule charter.
4. An elected police juror may be employed as a parish manager as authorized by LSA R.S. 33:1236.1.

Dual Officeholding and Dual Employment Prohibited and Regulated Relationships in Local Government (LSA R.S. 42:61-66)

DUAL OFFICEHOLDING AND DUAL EMPLOYMENT	LOCAL ELECTIVE OFFICE	LOCAL FULL-TIME APPOINTIVE OFFICE	LOCAL PART-TIME APPOINTIVE OFFICE	LOCAL FULL-TIME EMPLOYMENT	LOCAL PART-TIME EMPLOYMENT
STATE ELECTIVE OFFICE	PROHIBITED § 63 C & D	PROHIBITED § 63 C	ALLOWED	PROHIBITED § 63 C ₂	PROHIBITED § 63 C ₂
LOCAL ELECTIVE OFFICE	PROHIBITED § 63 D ₃	PROHIBITED § 63 D ₃	ALLOWED	Prohibited in same political subdivision- Allowed in different political subdivisions 1, 2, 3, 4	Prohibited in same political subdivision- Allowed in different political subdivisions 1, 2, 3, 4
STATE FULL-TIME APPOINTIVE OFFICE	PROHIBITED § 63 D	PROHIBITED § 63 E	ALLOWED	PROHIBITED § 63 E ₂	ALLOWED
STATE PART-TIME APPOINTIVE OFFICE	ALLOWED	ALLOWED	ALLOWED	ALLOWED	ALLOWED
LOCAL FULL-TIME APPOINTIVE OFFICE	PROHIBITED § 63 D ₃	PROHIBITED § 63 E ₃	ALLOWED	PROHIBITED § 63 E _{2, 3}	ALLOWED
LOCAL PART-TIME APPOINTIVE OFFICE	ALLOWED	ALLOWED	ALLOWED	ALLOWED	ALLOWED
STATE FULL-TIME EMPLOYMENT	PROHIBITED § 63 D ₂	PROHIBITED § 63 E ₂	ALLOWED	PROHIBITED § 63 E	ALLOWED
STATE PART-TIME EMPLOYMENT	PROHIBITED § 63 C ₂	ALLOWED	ALLOWED	ALLOWED	ALLOWED
LOCAL FULL-TIME EMPLOYMENT	Prohibited in same political subdivision. Allowed in different political subdivisions 1, 2, 3	PROHIBITED § 63 E _{2, 3}	ALLOWED	PROHIBITED § 63 E ₃	ALLOWED
LOCAL PART-TIME EMPLOYMENT	Prohibited in same political subdivision. Allowed in different political subdivisions 1, 2, 3	ALLOWED	ALLOWED	ALLOWED	ALLOWED

1. Sheriff's, assessors, and clerks of court are prohibited from holding any office or employment under a parish governing authority or school board and vice versa.
2. A school teacher or other persons employed by a professional educational capacity in an educational institution or in a parish or city school board may at the same time hold an appointive or elective office.
3. A municipal officer or employee may hold another municipal office or employment such as authorized by R.S. 33:381C. If specifically authorized by a legislative or home-rule charter.
4. An elected police juror may be employed as a parish manager as authorized by LSA R.S. 33:1236.1.

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