

March 30, 2000
OPINION NUMBER 00-16

Ms. Ann LaBorde
Supervisor of Personnel Accountability
St. John the Baptist Parish School Board
PO Drawer AL
Reserve, Louisiana 70084

LSA-R.S. 42:63
R.S. 42:64
LSA-R.S. 42:66

It is permissible for an elected member of the St. John the Baptist Parish Council to also hold the employed position as Sales and Use Tax Auditor for the St. John the Baptist School Board.

Dear Ms. LaBorde:

This office is in receipt of your opinion request wherein you ask if an employee of the St. John the Baptist Parish School Board, who has the position of Sales and Use Tax Auditor, may also serve on the St. John the Baptist Parish Council. You stated in your request that the school board is the tax collection agent for the entire parish and that one-half (1/2) of the Sales and Use Tax Auditor's salary was reimbursed to the School Board by the Parish Council.

The Louisiana dual officeholding prohibitions are found in LSA-R.S. 42:63, which states in pertinent part:

- D. 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 with 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 the parish governing authority or school board, nor shall any member of the parish governing authority or school board hold any office or employment with any sheriff, assessor, or clerk of court.

The parish of St. John the Baptist and the St. John the Baptist School Boards are separate political subdivisions per RS 42:62(9). Thus, the above prohibitions do not apply to the situation at issue.

In addition to dual officeholding provision, R.S. 42:64 provides additional prohibitions regarding incompatible offices and states in part:

A. In addition to the prohibitions otherwise provided in the 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 excises power in conjunction with others:

(5) Funds received by one office or employment are deposited with or turned over to the other office or position.

While the St. John the Baptist Parish School Board collects taxes for the parish, money is not directly transmitted or received by the "office" of parish councilman. Note the above statute refers to funds received by the "office" rather than by the political subdivision.

The exemptions to the dual officeholding provisions are found in LSA-R.S. 42:66, which states in pertinent part:

B. Nothing in this Part shall be construed to prevent 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 from holding at the same time an elective or appointive office.

This exemption does not apply to a Sales and Use Tax Auditor because the auditor is not in a "professional educational capacity."

Finding no other exemptions or prohibitions, it is thus, permissible for an elected member of the St. John the Baptist Parish Council to also hold the employed position as Sales and Use Tax Auditor for the St. John the Baptist School Board.

We hope the foregoing sufficiently addresses your concerns. If our office may be of further assistance, please do not hesitate to contact us at your convenience.

Very truly yours,

RICHARD P. IEYOUNG
ATTORNEY GENERAL

By: _____
J. RICHARD WILLIAMS
Assistant Attorney General

RPI:JRW/crt

SYLLABUS

OPINION NUMBER 00-16

LSA-R.S. 42:63

R.S. 42:64

LSA-R.S. 42:66

It is permissible for an elected member of the St. John the Baptist Parish Council to also hold the employed position as Sales and Use Tax Auditor for the St. John the Baptist School Board.

Ms. Ann LaBorde
Supervisor of Personnel Accountability
St. John the Baptist Parish School Board
P.O. Drawer AL
Reserve, Louisiana 70084

DATE RECEIVED:

DATE RELEASED: March 30, 2000

AUTHOR: J. RICHARD WILLIAMS
ASSISTANT ATTORNEY GENERAL