

February 9, 2000
OPINION NUMBER 00-26

Mr. Patrick Credeur
Executive Director
Louisiana Rural Water Association
Post Office Box 180
Kinder, Louisiana 70648

OPINION NUMBER 00-26
78 - Officers - Dual Officeholding
LSA-R.S. 42:63(D); LSA-R.S. 42:61; LSA-R.S. 40:5.11
Serving as councilman for Lafayette Parish while continuing to hold positions on the Fluoridation Advisory Board and the Governor's Rural Development Advisory Board, you would not be in violation of the dual officeholding prohibitions.

Dear Mr. Credeur:

You have requested an Attorney General's opinion as to whether you may run for the position of Lafayette Parish Councilman while simultaneously serving as a member of the Fluoridation Advisory Board and the Governor's Rural Development Advisory Board.

First, the Louisiana Rural Water Association is a private, non-profit entity. Therefore, your position as executive director for that Association does not restrain you from legally running for or holding an elected, appointed, or employment position in this state. Also, as a qualified elector in the State of Louisiana, you are eligible to be a candidate for any office.

However, whether you may hold that office upon election while serving on other state boards requires a review of Louisiana's dual officeholding laws.

LSA-R.S. 42:63(D), in pertinent part, states:

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 in the government of this state, or in the same political subdivision in which he holds an elective office. ...

LSA-R.S. 42:61 provides definitions important to our discussion:

- (1) "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 of this state or of a political subdivision thereof.
- (2) "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.

LSA-R.S. 40:5.11 mandates the establishment of the Fluoridation Advisory Board. Based on the information you have provided, together with a reading of the definitions cited above, your position on that board is a state part-time, appointive position. Therefore, the simultaneous holding of this appointment and that of parish councilman is not prohibited by the dual officeholding provisions.

Concerning your membership on the Governor's Rural Development Advisory Board, we have determined that this board is used strictly for consultation to the Governor's Office of Rural Development. LSA-R.S. 42:66(A)(5) states:

- A. Nothing in this Part shall be construed to prohibit any of the following classes of officials or employees from serving in other offices or employments:
 - (5) Persons serving on any board, commission, or committee which is solely advisory in nature.

Since this type of board is exempted from the dual officeholding prohibitions under LSA-R.S. 42:66(A)(5), we find that serving on this board while also serving as a parish councilman would not be a violation of those laws.

Therefore, we conclude you would not be in violation of the dual officeholding prohibitions by serving as councilman for Lafayette Parish while continuing to hold positions on the Fluoridation Advisory Board and the Governor's Rural Development Advisory Board.

Mr. Patrick Credeur
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I trust this addresses your concerns. Please contact this office if you require further assistance.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

By: _____
CARLOS M. FINALET, III
Assistant Attorney General

RPI:CMF/mb

SYLLABUS

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LSA-R.S. 42:63(D); LSA-R.S. 42:61; LSA-R.S. 40:5.11

Serving as councilman for Lafayette Parish while continuing to hold positions on the Fluoridation Advisory Board and the Governor's Rural Development Advisory Board, you would not be in violation of the dual officeholding prohibitions.

Mr. Patrick Credeur

Executive Director

Louisiana Rural Water Association

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Date Received:

Date Released: February 9, 2000

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ASSISTANT ATTORNEY GENERAL