

September 7, 2000
OPINION 00-305

Hon. Rick L. Farrar
State Representative District 27
P.O. Box 4196
Pineville, LA 71361

Dear Representative Farrar:

This office is in receipt of your request for an opinion of the Attorney General on an issue of dual officeholding. You indicate your legislative assistant works less than 30 hours a week as a Legislative Aide and receives no benefits from his employment. He also serves as a board member of the Red River Waterway Commission for which he receives no benefits and as board member he attends meetings once or twice a month. You ask if there exists any dual officeholding prohibition under these circumstances.

We find nothing in R.S. 42:63 wherein prohibitions for dual officeholding are set forth that would be applicable to the situation you have described so as to find any problem with holding both positions. While R.S. 42:63E prohibits a person holding full-time appointive office or full-time employment in the government of the state or a political subdivision thereof from holding at the same time another full-time appointive office or full-time employment in the government of the state or a political subdivision, or in a combination of these, herein both positions are part time. R.S. 42:62 defined "full time" as at least seven hours per day of work and at least thirty-five hours per week, and you indicate your legislative assistant works less than thirty hours a week.

Additionally, we do not find the prohibition of R.S. 42:63B has any application wherein it prohibits a person holding office or employment in one branch of state government to hold at the same time another office or employment in any other branch of state government. While the position as a legislative aide is in the legislative branch of government, we do not find that the position with the Red River Waterway Commission is in another branch of state government. In Anderson v. Red River Water Com'n, (W.D.La 1998) 16 F.Supp 2d 682, the court concluded that the Commission was not an arm of the state. The court noted that in accordance with R.S. 34:2301 the Commission was created as "a body politic and corporate of the State of Louisiana", and concerned mainly with local as opposed to statewide problems.

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We hope this sufficiently answers your inquiry, but if we can be of further assistance, do not hesitate to contact us.

Sincerely yours,

RICHARD P. IEYOUB
Attorney General

By: _____
BARBARA B. RUTLEDGE
Assistant Attorney General

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R.S. 42:62, 42:63

There is no dual officeholding prohibition that would prohibit a part time Legislative Aide from also being on the Red River Waterway Commission.

Hon. Rick L. Farrar
State Representative, District 27
P.O. Box 4196
Pineville, LA 71361

Date Received: Aug. 8, 2000
Date Released: September 7, 2000

BARBARA B. RUTLEDGE
Assistant Attorney General