

DUAL OFFICEHOLDING AND DUAL EMPLOYMENT



Madeline Carbonette
Assistant Attorney General

LOUISIANA CONSTITUTION
ART. X, SEC.22

The legislature shall enact laws defining and regulating dual employment and defining, regulating, and prohibiting dual officeholding in state and local government.

LA. R.S. 42:61-LA. R.S. 42:66

La. R.S. 42:61 Declaration of Policy

La. R.S. 42:62 Definitions

La. R.S. 42:63 Prohibitions

La. R.S. 42:64 Incompatible Offices

La. R.S. 42:65 Civil Remedy; Penalty

La. R.S. 42:66 Exemptions.

DECLARATION OF POLICY
LA. R.S. 42:61

It is essential that public officials and employees perform public business in manner that promotes a high level of trust and confidence

This may be impaired when two or more public offices or jobs are held which conflict with the duties and interests of each other or by the excessive accumulation of governmental power

It is the purpose of this Part to implement a policy to maintain the trust and confidence by defining and regulating dual employment and by defining, regulating, and prohibiting dual officeholding

ARCENEUX V. TREEN
671 F. 2d 128 (5th Cir. 1982)

Court held statutes:

Had a reasonable basis

Did not violate Equal Protection

Not unreasonable

Did not violate Due Process

ELECTIVE OFFICE
LA. R.S. 42:62(I)

Any position which is established or authorized by the constitution or laws of the state or by the charter or ordinances of any political subdivision thereof, which is not a political party office and which is filled by the vote of the citizens of the state or a political subdivision

APPOINTIVE OFFICE
LA. R.S. 42:62(2)

Any office which is specifically established or specifically authorized by the constitution or laws of the 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 the state or a political subdivision

EMPLOYMENT
LA. R.S. 42:63(3)

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

EMPLOYMENT
LA. R.S. 42:63(4)-(5)

FULL TIME

The period of time which a person works or is expected to work in an appointive office or employment which is at least seven hours per day and at least thirty-five hours per week of work

PART TIME

Less than full time

EXECUTIVE BRANCH
LA. R.S. 42:63(6)

Governor

Lieutenant Governor

Secretary of State

Attorney General

Treasurer

Commissioner of Agriculture

State Civil Service Commission

Public Service Commission

Board of Regents

Board of Supervisors of LSU

Board of Supervisors of SU

State Board of Elementary and Secondary Education Board
of Trustees for State Colleges and Universities

State Bond Commission

Officers, members, agents, and employees 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
LA. R.S. 42:62(7)

Members of the Senate

Members of the House of Representatives

Officers, agents and employees of the either house
or a committee of either house

Legislative Auditor

Legislative Fiscal Officer

Any other agency created by law which is primarily
legislative in nature

Any legislative officer, office or instrumentality of
the state

JUDICIAL BRANCH
LA. R.S. 42:62(8)

Judges

Employees and agents of the supreme court, judicial administrator, courts of appeals, district courts, civil and criminal district courts of Orleans Parish, parish courts, city courts, juvenile and family courts

Other judicial offices and instrumentalities of the state

POLITICAL SUBDIVISION
LA. R.S. 42:62(9)

Parish or municipality and any other unit of local government

School Board and special district authorized by law to perform governmental functions

Mayors Courts

Justice of the Peace Courts

District Attorneys

Sheriffs

Clerk of Courts

Coroners

Tax assessors

Registrars of Voters

All other elected parochial officers

PROHIBITIONS
LA. R.S. 42:63(A)(1)

Prohibits holding an elective office, appointive office, or employment in state government or a political subdivision and another elective office, appointive office or employment in the government of a foreign country, the United States or another state

LA. R.S. 42:63(A)(2)

Employment in the United States government does not prohibit holding an appointive office in a political subdivision unless found to be adverse to public interest or otherwise prohibited

LA. R.S. 42:63(A)(3)(A)

Employment in the United States government does not prohibit holding a part time elective office unless adverse to public interest or otherwise prohibited

PART-TIME ELECTED OFFICIALS

Legislators

School Board Members

Levee Board Members

Police Jurors

Parish Council Members

City Council, City-Parish Council, Town
Council Members

Aldermen

Constables

Board or Commission Members unless authorized by law enacted by 2/3 of elected Members of each house

Persons holding elective or appointive position or office defined to be part-time public service by law enacted by 2/3 of elected members of each house

LA. R.S. 42:63(B)

Prohibits holding an office or employment in more than one branch of state government, except as otherwise provided by the Louisiana Constitution

LA. R.S. 42:63(C)

Prohibits holding a state elective office and another elective office, full-time appointive office or employment in state government or government of a political subdivision

LA. R.S. 42:63(D)

Prohibits holding elective office in a political subdivision and another elective office or full time appointive office in state government or in government of a political subdivision

Prohibits holding elective office in a political subdivision and employment in the state or in the same political subdivision in which he holds elective office

Prohibits a Sheriff, Assessor, or Clerk of Court from holding any office or employment under a parish governing authority, or School Board

Prohibits a member of a parish governing authority or School Board from holding any office or employment with a Sheriff, Assessor or Clerk of Court

LA.R.S.42:63(E)

Prohibits holding two full-time appointive office or two full-time employments

LA.R.S.42:63(F)

Prohibits holding a state elective office and contracting to provide full-time health or health related services to any state agency

INCOMPATIBLE OFFICES
LA.R.S.42:64(A)(I)

Prohibits holding offices where one office has the power to appoint or remove the other office

Exception: Local governmental subdivision may appoint its members to boards and commissions created by them and over which they exercise general powers

INCOMPATIBLE OFFICES
LA.R.S.42:64(A)(2)

Prohibits holding offices where one office receives the oath or bond of the other office

INCOMPATIBLE OFFICES
LA.R.S.42:64(A)(3)

Prohibits holding offices where one office is charged by law with instituting actions for penalties against the other office

INCOMPATIBLE OFFICES
LA.R.S.42:64(A)(4)

Prohibits holding offices where one office is required by law execute orders and follow directions given by the other office

INCOMPATIBLE OFFICES
LA.R.S.42:64(A)(5)

Prohibits holding offices where one office is charged auditing the accounts or approving the budget of the other office

INCOMPATIBLE OFFICES
LA.R.S.42:64(A)(6)

Prohibits holding offices where funds received by one office are deposited or turned over to the other office

INCOMPATIBLE OFFICES
LA.R.S.42:64(C)

Prohibits holding offices where the powers, functions or duties are found to adverse to public interest

EXEMPTIONS
LA.R.S.42:66(A)

Notaries Public

Delegates to Constitutional Conventions or Charter
Commissions

Presidential Electors

Members of Advisory Boards

Current Administrator of Jefferson Pre-trial Release
program

Governor or designee when serving as a member of state entity in accordance with the constitution, laws, resolution or executive order

Any official who holds another office by virtue of the office to which he is elected or appointed

Members of Community Action Agencies

Members of District or State Soil and Water Conservation Commissions

EXEMPTIONS
LA.R.S.42:66(B)

Teacher or person employed in an educational capacity in a grade school, high school, other educational institution, parish or city school board may hold an elective or appointive office

EXEMPTIONS
LA.R.S.42:66(C)

Municipal officer or employee may hold another municipal office or employment as authorized by R.S. 33:381(C)

R.S. 33:381 Municipal Officers under Lawrason Act

EXEMPTIONS
LA.R.S.42:66(E)

A certified public accountant who is a member of a school board in any parish having a population of less than 50,000 according to the latest federal decennial census may hold employment with a sheriff to provide financial or accounting services

EXEMPTIONS
LA.R.S.42:66(K)

Mayor of a municipality with a population of than 5,000 who is licensed physician may be employed or appointed to any position for which a physician is required at the Lallie Kemp Regional Medical Center

EXEMPTIONS
LA.R.S.42:66(M)

Chief of Police of a municipality with a population of than 5,000 who is licensed physician may be employed or appointed to any position for which a physician is required at the Lallie Kemp Regional Medical Center

CIVIL REMEDY PENALTY
LA.R.S.42:65

Attorney General

District Attorney

Any Citizen

If found in violation

Court shall declare office with term first to expire or one of the employments vacant

Court may order reimbursement of all pay or other compensation

MARVIN V. BERRY
23-0214 (LA. 4/25/23), 359 SO.3D 957

Dual Officeholding and Dual Employment prohibited member of the board of commissioners of the Cypress Black Bayou Recreation and Conservation District from serving as the District's Executive Officer

La. R.S. 42:64(A)(I) Incompatible Offices

OPINIONS

24-0107 Contract employee of Town of Lockport is not prohibited from serving as part-time Assistant District Attorney for the 17th Judicial District

23-0071 Executive Director of the Capital Area Groundwater Conservation District is prohibited from holding an elective office in state government

19-0166 Member of the Board of Commissioners of the Mosquito District No. 1 of the Parish of Tangipahoa is not prohibited from serving as State Representative for District 73

21-0148 An employee of the Transportation Security Administration is not prohibited from serving as a member of the City of Shreveport Council