



**THE ATTORNEY GENERAL  
OF TEXAS**

**JIM MATTOX  
ATTORNEY GENERAL**

July 13, 1988

Mr. Michael Poppell, Manager  
Terrell County Water Control and  
Improvement District No. 1  
P. O. Box 569  
Sanderson, Texas 79848

LO-88-82

Dear Mr. Poppell:

Thank you for your letter of June 2, 1988, asking about the applicability of section 51.0721 of the Water Code to elections to the Board of Directors of the Terrell County Water Control and Improvement District No. 1. Specifically, you asked whether the disqualifications listed in section 51.0721 preclude a person not only from holding the office of director but also from being a candidate for the office.

The short answer is "no." So long as the reason for disqualification from holding office does not exist at the time the person becomes a member of the board of directors, the person is eligible for election and service on the board.

The original section 51.0721 of the Water Code was enacted in 1973, and contained provisions which disqualified a person from serving on the board of directors based on specified circumstances if those circumstances existed within two years immediately preceding his election (for example, if the person had been an employee of an attorney for the district). Attorney General Opinion H-226 (1974) concluded that the provisions of section 51.0721 that disqualified a person from office based on previous circumstances were unconstitutional, as violative of the equal protection guarantees of the United States Constitution and the Constitution of Texas.

After the issuance of Attorney General Opinion H-226, the legislature, in Acts 1975, ch. 248, § 2, at 601, amended section 51.0721 to "eliminate [ ] previous circumstances as being disabling when they do not exist at the time that a person would become a member of the board of directors . . . ." Bill analysis, Tex. S.B. 868, 64th Leg. (1975).

Given the plain language of the statute and the legislative history, we see no statutory bar to a person seeking the

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office of director while holding the position of general manager. So long as a person resigns as general manager before he takes the office as director, he may legally serve on the Board of Directors of the Terrell County Water Control and Improvement District No. 1 without violating section 51.0721.

We have spoken with lawyers at the Texas Water Commission and the Elections Division of the Secretary of State's office about your question. It is our understanding that both agencies concur in the answer to this question.

Sincerely yours,



Karen C. Gladney  
Assistant Attorney General  
Opinion Committee

KCG/er  
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