



The Attorney General of Texas

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Honorable Lela L. Widner
County Auditor
Jefferson County Courthouse
Beaumont, Texas 77701

Letter Advisory No. 150

Re: Whether a commissioner of a drainage district who is also a public school principal may receive compensation for his services as a commissioner.

Dear Ms. Widner:

You asked if a public school principal may receive compensation for his service as a commissioner for the Jefferson County Drainage District No. 7. You indicate that you have received conflicting legal opinions from the Criminal District Attorney of Jefferson County and from an attorney representing the Drainage District. The Drainage District attorney contends that the principal may receive compensation for his service as a director of the District since (1) he does not occupy more than one civil office of emolument and (2) he is exempted from the prohibitions of article 16, section 40 of the Texas Constitution as a director of a soil and water conservation district.

Article 16, section 40 of the Texas Constitution provides in part:

No person shall hold or exercise at the same time, more than one civil office of emolument, except that of . . . the officers and directors of soil and water conservation districts, unless otherwise especially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit . . . officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States . . . State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of

school districts, cities, towns, or other local governmental districts; provided, however, that such State employees or other individuals shall receive no salary for serving as members of such governing bodies.

We do not believe that a director of a drainage district falls within the article 16, section 40 exception relating to directors of soil and water conservation districts. Drainage districts are created pursuant to chapter 56 of the Texas Water Code. Soil and water conservation districts, on the other hand, are created under article 165a-4, V.T.C.S. See Acts 1965, 59th Leg., ch. 176, at 370. The Legislature is presumed to have chosen the language of its statutes, and particularly the language of the Constitution, with care and deliberation, and when a word has a settled meaning or legal significance, it is presumed to have been used in that sense. Turullols v. San Felipe Country Club, 458 S.W.2d 206, 209 (Tex. Civ. App. — San Antonio 1970, writ ref'd n.r.e.); see Alexander v. State, 204 S.W. 644, 647 (Tex. Crim. App. 1918). While there are general terms such as "conservation and reclamation districts" which could embrace both drainage districts and soil and water conservation districts, the Legislature did not use a generic term. The phrase it did use, "soil and water conservation districts," has a settled legal meaning and does not include drainage districts.

The second contention which was presented to you is that the individual may be paid for both jobs since he does not hold more than one civil office of emolument. See Tilley v. Rogers, 405 S.W.2d 220, 224 (Tex. Civ. App. — Beaumont 1966, writ ref'd n.r.e.). We do not believe it is relevant whether the individual holds two civil offices of emolument. The Constitution provides that

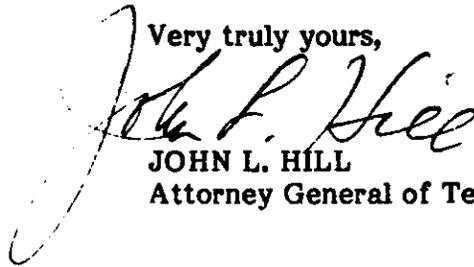
individuals who receive all or part of their compensation — either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of . . . local governmental districts; provided, however, that such . . . individuals shall receive no salary for serving as members of such governing bodies.

Tex. Const. art. 16, § 40. This provision is not limited to those individuals who otherwise would be holding more than one civil office of emolument. Attorney General Opinions H-659 (1975), H-6 (1973). Since a school principal receives all or part of his salary either directly or indirectly from funds of the State of Texas, see Texas Education Code, chapter 16, we believe article 16, section 40 of the Texas Constitution prohibits him from receiving compensation for his service as director of a drainage district.

S U M M A R Y

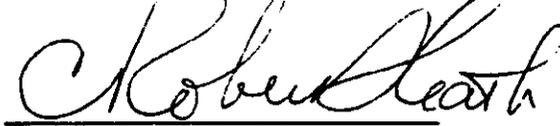
A public school principal may serve as a director of a drainage district, but he may not receive compensation for such service.

Very truly yours,



JOHN L. HILL
Attorney General of Texas

APPROVED:


DAVID M. KENDALL, First Assistant
C. ROBERT HEATH, Chairman
Opinion Committee

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