



THE ATTORNEY GENERAL  
OF TEXAS

AUSTIN 11, TEXAS

WILL WILSON  
ATTORNEY GENERAL

August 26, 1957

Mr. Joe L. Cox  
District Attorney  
Plainview, Texas

Opinion No. WW-246

Re: Whether a member of the Board of Trustees of the Plainview Independent School District would be qualified to serve as a Director of the Canadian River Municipal Water Authority and related question.

Dear Mr. Cox:

Your letter, dated August 12th, requests an opinion of this office on the following two questions:

1. May a member of the Board of Trustees of the Plainview Independent School District also serve as a Director of the Canadian River Municipal Water Authority?

2. May a member of the Board of Directors of Texas Technological College also serve as a Director of the Canadian River Municipal Water Authority?

Section 40 of Article XVI of the Constitution of Texas provides, in part, as follows:

"No person shall hold or exercise, at the same time, more than one Civil Office of emolument, . . . "

Each of the three offices involved herein are clearly "Civil Offices" within the meaning of the foregoing constitutional provision. Attorney General's Opinion No. O-490 (1939); Thomas, et al v. Abernathy County Line Independent School District, et al, 278 S.W. 312; 34 Tex. Jur. 323; Attorney General's Opinion No. O-5157 (1943). It remains for us to consider whether same are "Civil Offices of emolument".

The term "emolument" means a pecuniary profit, gain or advantage. Irwin v. State, 177 S.W. 970; 34 Tex. Jur. 349.

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Section 5(b) of Senate Bill No. 126, Acts of the 53rd Legislature, Regular Session, 1953, chapter 243, p. 616, provides that members of the Board of Directors of the Canadian River Municipal Water Authority shall each receive a fee of \$20.00 for attending each meeting of the Board, provided that not more than \$40.00 shall be paid to any director for meetings held in any calendar month. On the other hand, neither salary, per diem nor other pecuniary profit, gain or advantage is provided by law for members of the Board of Directors of Texas Technological College nor for members of the Board of Trustees of the Plainview Independent School District.

In view of the foregoing we conclude:

1. A member of the Board of Directors of the Canadian River Municipal Water Authority holds a Civil Office of emolument within the meaning of Section 40 of Article XVI of the Constitution of Texas, and hence, at the same time may not hold another "Civil Office of emolument".

2. A member of the Board of Directors of Texas Technological College, as well as a member of the Board of Trustees of the Plainview Independent School District, while holding "Civil Offices" do not hold "Civil Offices of emolument" as the latter term is hereinabove defined within the meaning of the Constitution.

3. Since a member of the Board of Directors of Texas Technological College and a member of the Board of Trustees of the Plainview Independent School District, each serving at the same time as a member of the Board of Directors of the Canadian River Municipal Water Authority, would not be holding more than one "Civil Office of emolument", such dual office holding would not be prohibited by Section 40 of Article XVI of the Constitution of Texas.

In addition, we think there is no common law incompatibility involved between the duties of the respective offices.

#### SUMMARY

A member of the Board of Trustees of the Plainview Independent School District and a member of the Board of Directors of

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Texas Technological College may each,  
at the same time, serve as a member of  
the Board of Directors of the Canadian  
River Municipal Water Authority.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By *Leonard Passmore*  
Leonard Passmore  
Assistant

LP:pf:jl

APPROVED:

OPINION COMMITTEE:

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Mary Kate Wall

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REVIEWED FOR THE ATTORNEY GENERAL  
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