



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HILL
ATTORNEY GENERAL**

April 27, 1973

The Honorable Dolph Briscoe
Governor of the State of Texas
Executive Department
Austin, Texas 78711

Letter Advisory No. 19

Re: Dual Employment

Dear Governor Briscoe:

You have asked our opinion as to whether a member of the City Council of the City of Houston, who receives a per diem compensation plus actual and necessary expenses, may be appointed a member of the Texas Board of Corrections, a position which, according to Article 6166b, Vernon's Texas Civil Statutes, is a state officer. Members receive no salary but are entitled to a per diem of \$10.00 and actual and necessary expenses when engaged in the discharge of their official duties.

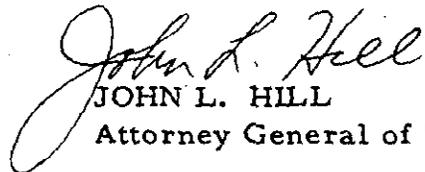
Section 40 of Article 16 of the Constitution provides in part: "No person shall hold or exercise at the same time, more than one civil office of emolument" Membership on a City Council is an office of emolument. Tilley v. Rogers, 405 S. W. 2d 220 (Tex. Civ. App., Beaumont, 1966, err. ref'd., n. r. e.); Boyett v. Calvert, 467 S. W. 2d 205 (Tex. Civ. App., Austin, 1971, err. ref'd., n. r. e.).

We are of the opinion that membership on the Texas Board of Corrections, involving as it does exercise of sovereign powers of the State and an "emolument" of \$10.00 per day, likewise constitutes a civil office of emolument, and the quoted prohibition of § 40 applies. Aldine Independent School District v. Standley, 280 S. W. 2d 578 (Tex. 1955); State v. Mycue, 481 S. W. 2d 476 (Tex. Civ. App., San Antonio, 1972, no writ).

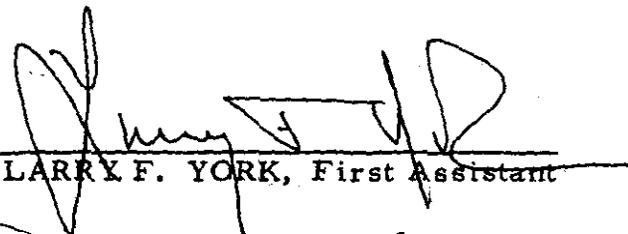
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We are, therefore, of the opinion that a member of the City Council of the City of Houston may not be appointed a member of the Texas Board of Corrections without forfeiting his position as member of the City Council.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


LARRY F. YORK, First Assistant


DAVID M. KENDALL, Chairman
Opinion Committee