



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN, TEXAS 78711

**JOHN L. HULL,
ATTORNEY GENERAL.**

January 20, 1976

The Honorable Richard R. Gonzales Opinion No. H-767
County Attorney
County of Jim Hogg
Hebbronville, Texas 78361

Re: Whether a justice
of the peace resigns
his office on announcing
his candidacy for a
second office.

Dear Mr. Gonzales:

You have asked that we render a formal opinion on the following question:

If a Justice of the Peace who has more than one year remaining of his unexpired term announces his candidacy for office as Director of the Water Control and Improvement District in the same County does such candidacy constitute an automatic resignation of the office of Justice of the Peace?

Article 16, section 65 of the Texas Constitution provides in relevant part:

Staggering Terms of Office - The following officers elected at the General Election in November, 1954, and thereafter, shall serve for the full terms provided in this Constitution:

. . .

(j) Justices of the Peace.

. . .

Provided, however, if any of the officers named herein shall announce their candidacy, or shall in fact become a candidate, in any General, Special or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed one (1) year, such announcement or such candidacy shall constitute an automatic resignation of the office then held, and the vacancy thereby created shall be filled pursuant to law in the same manner as other vacancies for such office are filled.

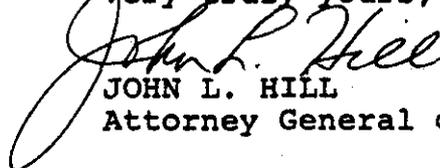
A director of a water control and improvement district must meet certain qualifications (Water Code § 51.072), is elected (Water Code § 51.073), is required to take an oath of office (Water Code § 51.078) and is required to execute a bond (Water Code § 51.079). We believe it is clear that he occupies an office of trust under the laws of this State. See Willis v. Potts, 377 S.W. 2d 622 (Tex. Sup. 1964).

Accordingly, under the clear language of the Constitution, a justice of the peace with more than one year remaining on his term automatically resigns his office on announcing his candidacy for director of a water control and improvement district. See Ramirez v. Flores, 505 S.W.2d 406 (Tex.Civ. App. -- San Antonio 1973, writ ref'd n.r.e.).

S U M M A R Y

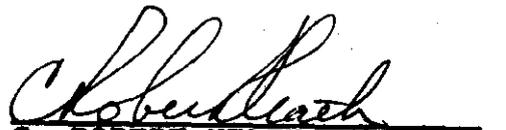
A justice of the peace with an unexpired term of more than one year automatically resigns his office on announcing his candidacy for director of a water control and improvement district.

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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