



**THE ATTORNEY GENERAL
OF TEXAS**

July 21, 1989

**JIM MATTON
ATTORNEY GENERAL**

Honorable Patrick J. Ridley
Bell County Attorney
P. O. Box 1127
Belton, Texas 76513

LO-89-58

Dear Mr. Ridley:

You ask whether an assistant county attorney of Bell County may serve simultaneously as city attorney for the city of Robinson, which is located in McLennan County.

Article XVI, section 40, of the Texas Constitution prohibits any person from holding more than one civil office of emolument. We assume that the individual in question, in her position as assistant county attorney, serves under your direction and at your pleasure. We also assume that, in her position as city attorney of Robinson, she serves under the direction and at the pleasure of the Robinson City Council. If these facts are correct, the individual about whom you inquire does not, in either instance, hold a civil office of emolument. See Attorney General Opinion JM-499 (1986) (chief appraiser does not hold a civil office of emolument).

As to the common law doctrine of incompatibility, it has never been held applicable to two employments. The entire rationale of the doctrine focuses upon the circumstance that, in one or both positions, the individual exercises a portion of the sovereignty, such that the holding of both would violate either the "conflicting loyalties" branch of the doctrine or the "self-employment" branch. See Letter Opinion 89-57 (1989). We do not believe that "conflicting loyalties" can arise when an individual in both capacities serves at the direction and pleasure of a superintending individual or body. Consequently, it is our opinion that an assistant county attorney of Bell County may serve simultaneously as city attorney for the city of Robinson.

Very truly yours,


Rick Gilpin, Chairman
Opinion Committee

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APPROVED: Sarah Woelk, Chief
Letter Opinion Section

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