



**THE ATTORNEY GENERAL
OF TEXAS**

November 16, 1989

**JIM MATTOX
ATTORNEY GENERAL**

Honorable Brad Harris
Callahan County Attorney
Courthouse
Baird, Texas 79504

LO-89-95

Dear Mr. Harris:

You ask whether a county employee may become a candidate for the office of county judge without resigning his current employment. You offer no constitutional or statutory impediment in state law to suggest that such a resignation is necessary, and we are unaware of any. Also, you do not indicate that the county has adopted a policy regarding candidacy by county employees. Therefore, we do not consider whether the county could require a county employee to resign upon becoming a candidate for political office.

The Texas Constitution does provide for the automatic resignation of certain named officers who announce their candidacy for other offices under specific circumstances. See Tex. Const. art. XVI, § 65; id. art. XI, § 11. Neither of these provisions is applicable to your question. Nor does article XVI, section 40, of the Texas Constitution appear to be relevant. That provision addresses employees who receive state funds as compensation.

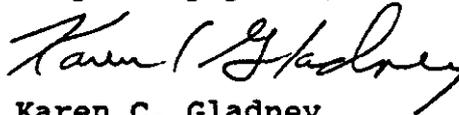
You describe a situation in which an employee of the county receives compensation composed of federal, county and municipal funds. Because you state that the employee's salary is partly derived from federal funds, the Hatch Act (5 U.S.C. § 1501 et seq.) may be applicable. The Hatch Act places political activity restrictions (including candidacy for partisan office) on certain public employees.

We are unable, in the opinion process, to resolve the factual issues which are necessary to determine the applicability of the Hatch Act to this particular employee. You may want to contact the United States Merit Systems

Honorable Brad Harris
November 16, 1989
Page 2

Protection Board in Washington, D.C. for assistance with this matter. The Board has a toll free telephone service, 1-800-872-9855. The regular office number is 202-653-7143.

Very truly yours,



Karen C. Gladney
Assistant Attorney General
Opinion Committee

KCG/er

APPROVED: Rick Gilpin, Chairman
Opinion Committee

Sarah Woelk, Chief
Letter Opinion Section

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