



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 18, 1992

Ms. Rita Horwitz  
Executive Director  
State Pension Review Board  
P. O. Box 13498  
Austin, Texas 78711

Letter Opinion No. 92-34

Re: Question concerning where the board of trustees of the Austin Employees Retirement System should post notice of its meetings (RQ-213)

Dear Ms. Horwitz:

You have requested our opinion regarding the applicability of the posting requirements under the Open Meetings Act, article 6252-17, V.T.C.S., to the board of trustees of the City of Austin Employees Retirement System.

The current board of trustees of the City of Austin Employees Retirement System was established by Senate Bill 737, Acts 1991, 72d Leg., ch. 451, at 1623 *et seq.* The board is composed of 11 members, including (1) a city council member appointed by the city council; (2) the city manager or her designee; (3) the city's director of finance or his designee; (4) four active employee members of the Retirement System elected by the membership; (5) three qualified voting residents of the city, appointed by the city council and by the board of trustees; and (6) one retired member elected by retired members. The board is invested with "the general administration, management, and responsibility for the proper and effective operation of the retirement system. *Id.* § 4.

The Open Meetings Act defines "governmental body" to include, *inter alia*, "every deliberative body having rule-making or quasi-judicial power and classified as a department, agency, or political subdivision of a county or city." V.T.C.S. art. 6252-17, § 1(c). In Attorney General Opinion MW-506 (1982), this office considered the applicability of the Open Meetings Act to the board of trustees of a firemen's relief and retirement fund. The board had been created pursuant to section 23A of article 6243e, V.T.C.S., and was composed of city officials serving *ex officio* and members of the fire department elected by their fellow members. The city treasurer acted as custodian of the board's funds. The opinion held that the board, which had the "power to receive, handle and control, manage and disburse the Firemen's Relief and Retirement Fund," was therefore "a deliberative body with

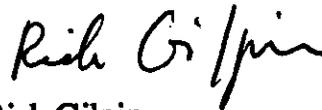
quasi-judicial powers and classified as an agency of a city" for purposes of the Open Meetings Act. *See also* Attorney General Opinions JM-4 (1983) (board of trustees of the city of Robinson waterworks); MW-174 (1980) (board of trustees of a city's firemen's relief and retirement fund).

The board of trustees of the Employees Retirement System of the city of Austin, which is invested with "the general administration, management, and responsibility for the proper and effective operation of the retirement system," is virtually identical, for purposes of the Open Meetings Act, to the board that was the subject of Attorney General Opinion MW-506. In our opinion, the board is clearly a "deliberative body having rule-making or quasi-judicial power," and it is properly "classified as a[n]... agency... of a... city" under section 1(c) of the Open Meetings Act. As a result, it is a "city governmental body" for posting purposes under section 3A(c) of the Open Meetings Act. As such, the board should post notice of its meetings "on a bulletin board to be located at a place convenient to the public in the city hall." V.T.C.S. art. 6252-17, § 3A(c).

### S U M M A R Y

The board of trustees of the City of Austin Employees Retirement System is an "agency of the city" under section 1(c) of V.T.C.S. article 6252-17, the Open Meetings Act, and, as such, should post notice of its meetings "on a bulletin board to be located at a place convenient to the public in the city hall," pursuant to section 3A(c).

Very truly yours,

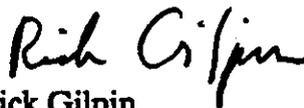


Rick Gilpin  
Deputy Chief  
Opinion Committee

**S U M M A R Y**

The common-law doctrine of incompatibility prohibits an individual from simultaneously holding the positions of justice of the peace and deputy constable in the same precinct. However, there is no bar to a justice of the peace serving as deputy constable in a different precinct, whether within or without his home county. Likewise, a justice of the peace may hold the position of deputy sheriff in a county other than the county he serves as justice of the peace.

Yours very truly,



Rick Gilpin  
Deputy Chief  
Opinion Committee