



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 31, 1996

The Honorable Tom E. Maness
Criminal District Attorney
Jefferson County Courthouse
1001 Pearl Street, Third Floor
Beaumont, Texas 77701-3545

Letter Opinion No. 96-083

Re: Whether the filing of an application for school board trustee results in the automatic resignation of an individual from the office of justice of the peace (ID# 38857)

Dear Mr. Maness:

You request our opinion as to whether the filing of an application for school trustee results in the automatic resignation of an individual from the office of justice of the peace. You indicate that, on February 27, 1996, the justice of the peace of precinct six in Jefferson County filed for the elective position of school trustee of the Beaumont Independent School District. At that time, the unexpired term of his judicial office was more than two years.

Article XVI, section 65, Texas Constitution, provides that various local officers, including justices of the peace, serve four-year terms, and that if any of them

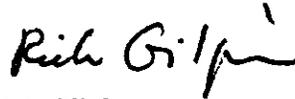
shall announce their candidacy, or shall in fact become a candidate, in any General, Special, or Primary Election, for any office of profit or trust under the laws of this State or the United States other than the office then held, at any time when the unexpired term of the office then held shall exceed 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 trustee of an independent school district holds an "office of trust under the laws of this state." *Ramirez v. Flores*, 505 S.W.2d 406 (Tex. Civ. App.—San Antonio 1973, writ ref'd n.r.e.). It follows that, when a justice of the peace files an application to become a candidate for school trustee when more than one year remains in his term as justice, he automatically resigns the latter office. See Letter Opinion Nos. 96-011 (1996), 95-071 (1995).

S U M M A R Y

A justice of the peace who, with more than one year remaining in his term as justice, files an application to become a candidate for trustee of an independent school district, automatically resigns the office of justice of the peace.

Yours very truly,

A handwritten signature in cursive script that reads "Rick Gilpin".

Rick Gilpin
Deputy Chief
Opinion Committee