



ID# 13044  
MS

*Michael J. Guarino*

CRIMINAL DISTRICT ATTORNEY  
GALVESTON COUNTY

405 COUNTY COURTHOUSE  
GALVESTON, TEXAS 77550  
FAX (409) 766-2290

SUSAN W. BURRIS  
FIRST ASSISTANT  
GEORGE H. COOLEY  
GRAND JURY CHIEF  
FELIX M. MARES  
CHIEF INVESTIGATOR

July 19, 1991

RD-129

The Honorable Dan Morales  
Attorney General of Texas  
P. O. Box 12548  
Austin, TX 78711-2548

**RECEIVED**

**JUL 23 91**

**Opinion Committee**

Attention: Opinion Committee

Re: Attorney General Opinion Request

Dear Mr. Morales:

Pursuant to Section 402.043 of the Texas Government Code, I respectfully request your opinion on whether or not a county commissioner may serve simultaneously as a trustee for an independent school district (V.T.C.A., Education Code, Chapter 23). Enclosed is a letter to me from Galveston County Commissioner Billy Pegues setting forth the facts surrounding this question.

Dual office holding is expressly forbidden by Section 40, Article XVI, of the Texas Constitution, however, county commissioners are expressly excepted. In addition, a trustee of an independent school district serves without compensation except for reimbursement for travel expenses (V.T.C.A., Education Code, Sec. 23.19). Attorney General Opinion No. MW-21 indicates that reimbursement of this type does not turn the trustee position into an office of emolument.

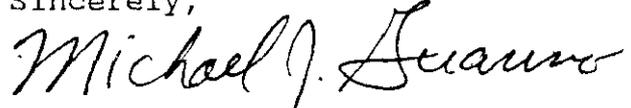
A review of statutes relative to the respective duties of both offices fails to reveal any incompatibility.

I conclude that a commissioner is not precluded from holding both offices simultaneously.

It appears that Attorney General Opinion No. V-63 is directly in point. V-63 is a 1947 opinion and, in light of the age of that opinion, I am submitting this question to you for consideration. Please feel free to reply through the use of a letter opinion, if you think that would be appropriate.

Your assistance in this matter is greatly appreciated.

Sincerely,



MICHAEL J. GUARINO  
Criminal District Attorney  
Galveston County, Texas

jr

cc: Billy J. Pegues