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J.E. "BUSTER" BROWN
STATE SENATOR

OPINION COMMITTEE

August 19, 2002

FILE # ML-42765-02

I.D. # 42765

RQ-0596-JC

The Honorable John Cornyn
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

RE: Request for Attorney General's Opinion Regarding the appointment of a member of the Board of Trustees of the San Jacinto College District to the Clear Brook Municipal Utility District

Dear General Cornyn:

Pursuant to Section 402.042 of the Texas Government Code, please consider this letter a formal request for your opinion on the interpretation of Article 16, Section 40, Texas Constitution, regarding the provisions thereof that provide that "no person shall hold or exercise at the same time, more than one civil office of emolument." Please further opine as to the doctrine of "incompatibility of offices" as such relates to the following situation.

The Clear Brook Municipal Utility District is interested in the appointment of a person to that district who serves as a trustee on the Board of Trustees of the San Jacinto College District. This trustee receives no fee of office, but is included in the District's health insurance plan. If appointed or elected to the Clear Brook Municipal Utility District's Board, the candidate has expressed the intent to waive the receipt of the otherwise allowed per diem allowance.

In addition to the information submitted, I have enclosed a letter from Arturo G. Michel of Bracewell and Patterson, L.L.P., for your information.

Based on the foregoing, I respectfully submit the following for your opinion:

May a trustee on the Board of Trustees of the San Jacinto College District (who receives no fee of office but is included in the District's health insurance plan) serve on the Board of Directors of the Clear Brook Municipal Utility District, which was created pursuant to Chapters 49 and 50 of the Texas Water Code, and has a geographically overlapping taxing jurisdiction for most of the area encompassed by the Clear Brook Municipal Utility District?

Your prompt opinion on this issue would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Buster Brown".

JEB:jlb

Enclosure

cc: William L. H. Morgan, Jr.

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