

RECEIVED

JUL 20 2012

SENATE COMMITTEE ON STATE AFFAIRS

OPEN RECORDS DIVISION

SENATOR ROBERT DUNCAN, Chairman
SENATOR ROBERT DEUELL, Vice Chairman
SENATOR JOHN CARONA
SENATOR RODNEY ELLIS



SENATOR TROY FRASER
SENATOR CHRIS HARRIS
SENATOR MIKE JACKSON
SENATOR EDDIE LUCIO, JR.
SENATOR LETICIA VAN DE PUTTE

RECEIVED

JUL 23 2012

OPINION COMMITTEE

July 19, 2012

The Honorable Greg Abbott
Attorney General of Texas
Opinions Committee
P.O. Box 12548
Austin, TX 78711-2548

FILE # M1-47100-12
I.D. # 47100

RQ-1073-GA

Re: Request for Attorney General Opinion on whether an individual may simultaneously serve as a member of the Board of Directors of an underground water conservation district and as a member of the Board of Directors of an education service center.

Dear General Abbott:

As Chairman of the Senate State Affairs Committee please accept this letter as a request for an Attorney General Opinion pursuant to Government Code, Section 402.042(b)(7), concerning the ability of a member of the Board of Directors of the High Plains Underground Water Conservation District No. 1 to simultaneously serve on the Board of Directors of the Region 17 Regional Education Service Center, or whether such service would be in contravention of any constitutional, statutory or common law prohibitions.¹

The High Plains Underground Water Conservation District No. 1 is a political subdivision of the State of Texas organized and existing under and by virtue of Article XVI, Section 59 of the Texas Constitution, and was created pursuant to Vernon's Texas Civil Statutes Article 7880-3c, as amended, and with Ch. 10, Act of the 53rd Leg., R.S. (1953) and Ch. 493, Act of the 57th Leg., R.S. (1961). The District operates under the authority in its enabling legislation and Chapter 36 of the Texas Water Code. The District covers 7.5 million acres consisting of all or part of 16 counties in the High Plains area of Texas.² The District has taxing authority approved by the voters at the election to create the District in 1951 and is governed by a Board of Directors consisting of five members elected by the voters within the District's boundaries.³

The Region 17 Regional Education Service Center is one of 20 regional education service centers across the State. Regional education service centers were created by the Texas

¹ See attached letter from Jim Conkwright, General Manager, High Plains Underground Water Conservation District No. 1 (July 12, 2012).

² High Plains Underground Water Conservation District No. 1 website, available at: <http://www.hpwd.com/>.

³ Acts 1953, 53rd Leg., R.S., ch. 10, Gen. & Special Laws.



The Honorable Greg Abbott

July 19, 2012

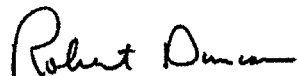
Page 2

Legislature for the purpose of assisting school districts in improving student performance, operating more efficiently and economically, and implementing initiatives imposed by the Texas Legislature or the Commissioner of Education.⁴ Regional education service centers do not have taxing authority.⁵ Each regional education service center is governed by a Board of Directors consisting of seven members that are elected by the boards of trustees of the school districts in the respective region.⁶ Regional education service center Board members are not entitled to compensation for services, but are entitled to reimbursement for necessary expenses incurred in performing duties as a Board member.⁷ Chapter 8 of the Education Code provides that regional education service centers are to be treated as political subdivisions or state agencies for specific, but limited, purposes.⁸ Similarly, Chapter 8 of the Education Code also sets forth specific purposes for which regional education service center Board members are to be regarded as public officials.⁹

Question Presented: Are there any constitutional, statutory or common law dual office holding prohibitions that would prevent a member of the Board of Directors of the High Plains Underground Water Conservation District No. 1 from also serving on the Board of Directors of the Region 17 Regional Education Service Center?

Thank you for your time and attention to this request. Please feel free to contact me or my staff if you have any questions or need any further information.

Sincerely,



Robert Duncan

Enclosure

cc: Mr. Robert Meyer, Board President, High Plains Underground Water Conservation District No. 1
Mr. Jim Conkwright, General Manager, High Plains Underground Water Conservation District No. 1
Mr. Billie Harrison, Chairperson, Region 17 Regional Education Service Center
Mr. Kyle Wargo, Ed.D., Executive Director, Region 17 Regional Education Service Center

⁴ TEX. EDUC. CODE ANN. § 8.002 (West 2012).

⁵ *Id.* at §§ 8.051 and 8.121(a).

⁶ *Id.* at § 8.003; 30 TEX. ADMIN. CODE § 53.1001(a) (Texas Education Agency, Regional Education Service Center Board of Directors).

⁷ TEX. EDUC. CODE § 8.003(d).

⁸ *See* TEX. EDUC. CODE §§ 8.008 and 8.009(b); *See also* *Perez v. Region 20 Educ. Serv. Ctr.*, 307 F.3d 318, 327-29 (5th Cir. 2002).

⁹ TEX. EDUC. CODE §§ 8.009(a) and 8.011.