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MAY 23 2013
OPINION COMMITTEE



RYAN GUILLEN
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TEXAS STATE REPRESENTATIVE

FILE # ML-47278-13
I.D. # 47278

RQ-1128-GA

April 23, 2013

The Honorable Greg Abbott
Attorney General of Texas
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Dear General Abbott,

In my position as chair of the Culture Recreation and Tourism Committee, I respectfully request a formal opinion concerning the legality and constitutionality of a state employee running for an elected county office and assuming such an office.

In a previous opinion, included here, a member of the legislature was allowed to hire and pay a county commissioner as a member of his staff.

Letter Opinion No. 98-039

Re: Whether a legislator may employ local public officials (RQ-1078)

A proviso to article XVI, section 40, states, however: State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts; provided, however, that such State employees or other individuals shall receive no salary for serving as members of such governing bodies.

An employee of the legislature is a "state employee." Consequently, a legislator would be barred by the proviso from employing members of any local governing body in which compensation is attached to the local position, unless the local official renounces the compensation. Letter Opinion No. 95-033 (1995). On the other hand, *County of Maverick v. Ruiz*, 897 S.W.2d 843, 847 (Tex. App.--San Antonio 1995, no writ), holds that the phrase "other local governmental districts" does not embrace counties. As a result, a legislator may employ a county commissioner without the latter renouncing his salary as commissioner.

I look forward to your response. If you have any questions, please feel free to contact me or my office for further information.

I greatly appreciate your assistance with this matter, and I look forward to hearing from you.

Yours In Public Service,



Ryan Guillen
Texas State Representative