



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable C. Burt Potter
County Attorney
San Patricio County
Sinton, Texas

Dear Sir:

Opinion No. 0-1071
Re: Qualifications of school
trustees--Compatibility
of offices.

We are in receipt of your letter of June 28, 1939,
in which you request the opinion of this department upon the
following question:

"May the mayor of a town, who holds an office of
emolument or a city commissioner, who under the law
does not draw emoluments of office, also hold the of-
fice of independent school district trustee, which al-
so does not pay a salary?"

We assume that the town to which you refer is
within the independent school district and that some of the
properties and buildings of the independent school district
are located within the boundaries of said city, although it
is not specifically so stated in your letter.

Article 16, Section 40 of the Texas Constitution
provides in part:

"No person shall hold or exercise, at the same time,
more than one civil office of emolument, except that of
justice of the peace, county commissioner, notary public
and postmaster * * *."

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Although an office may not be a civil office of emolument so as to come within this constitutional prohibition, it is well settled in our case law that two offices may not be held at the same time by the same person if they are incompatible although one or both of said offices may not be offices of emolument.

In the case of Thomas v. Abernathy County Line Independent School District, (Comm. App. 1927), 290 S. W. 152, it was held that the office of city councilman and alderman are incompatible with the office of school trustee and cannot be held at the same time by one person. We think the reasons assigned in this case for holding the offices incompatible would be equally applicable to the office of mayor of a town.

It is our opinion that the mayor of a town and a city commissioner would not be eligible to hold at the same time the office of independent school district trustee, although neither office pays a salary.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Cecil C. Cammack*
Cecil C. Cammack
Assistant

APPROVED JUL 8, 1939
CCG:lw
[Signature]
FIRST ASSISTANT
ATTORNEY GENERAL

