



**THE ATTORNEY GENERAL
OF TEXAS**

**CRAWFORD C. MARTIN
ATTORNEY GENERAL**

AUSTIN, TEXAS 78711

May 20, 1969

Hon. Oscar H. Mauzy
Chairman
Conference Committee
Capitol Building
Austin, Texas

Opinion No. M-399

Re: Article III, Section 18 of
the Constitution of the
State of Texas, as amended
November 5, 1968.

Dear Senator Mauzy:

Your request for an opinion reads as follows:

"Can a member of the legislature become a candidate for County Commissioners Court, if he was a member of the legislature at the time an increase in emoluments of such office was passed, where the terms of both such legislative and county offices expire at the same time on the last day of December, and the term of such County Commissioner begins on January 1 of the next succeeding year?"

Section 18 of Article III of the Constitution of Texas was amended by the adoption of House Joint Resolution No. 22 of the 60th Legislature, 1967, so as now to provide:

"No Senator or Representative shall, during the term for which he was elected, be eligible to (1) any civil office of profit under this State which shall have been created, or the emoluments of which may have been increased, during such term, or (2) any office or place, the appointment to which may be made, in whole or in part, by either branch of the Legislature; provided, however, the fact that the term of office of Senators and Representatives does not end precisely on the last day of December but extends a few days into January of the succeeding year shall be considered as de minimis, and the

ineligibility herein created shall terminate on the last day in December of the last full calendar year of the term for which he was elected. No member of either House shall vote for any other member for any office whatever, which may be filled by a vote of the Legislature, except in such cases as are in this Constitution provided, nor shall any member of the Legislature be interested, either directly or indirectly, in any contract with the State, or any county thereof, authorized by any law passed during the term for which he was elected." (Emphasis added.)

The underlined proviso was added to Section 18 of Article III by the amendment.

Under the plain wording of the amendment, a member of the Legislature may become a candidate for the County Commissioners Court if he was a member of the Legislature at the time an increase in emoluments of such office was passed, where the terms of both legislative and county offices expire at the same time on the last day of December, and the term of such County Commissioner begins on January 1 of the next succeeding year for the reason that the prohibition contained in Section 18 of Article III of the Constitution of the State of Texas terminates on the last day of December of the last full calendar year of the term for which he was elected.

S U M M A R Y

The amendment to Section 18 of Article III of the Constitution of Texas adopted at the General Election held on November 5, 1968, relating to eligibility of Senators and Representatives to hold other offices specifically provides that the ineligibility created by Section 18 shall terminate on the last day in December of the last full calendar year of the term for which he was elected Senator or Representative and a member of the Legislature may become a candidate for the County Commissioners Court for a term beginning January 1st of the next succeeding year after December 31st of the last full calendar year of the term for which he was elected a member of the Legislature.

Honorable Oscar Mauzy, page 3 (M-399)

Very truly yours,



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APPROVED:
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