

TEXAS HOUSE OF REPRESENTATIVES

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MIKE KRUSEE

CHAIRMAN, HOUSE COMMITTEE ON TRANSPORTATION

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OPINION COMMITTEE

October 31, 2005

FILE # ML-44486-05
I.D. # 44486

The Honorable Greg Abbott
Texas Attorney General
209 West 14th Street
Austin, TX 78701

RQ-0409-GA

Dear General Abbott:

I would like to formally request an Attorney General's Opinion to clarify whether or not a person employed as a part-time teacher at a local community college that receives funding from the State of Texas may be compensated for his or her service on the board of a municipal utility district.

I have attached supporting documentation that will provide further details surrounding this issue. If you have further questions, please contact Wendy Reilly in my office.

Sincerely,

Mike Krusee



THE MEADOWS AT CHANDLER CREEK
MUNICIPAL UTILITY DISTRICT
c/o Severn Trent Environmental Services, Inc.
14046 Summit
Austin, Texas 78728

October 26, 2005

Honorable Mike Krusee
Texas House of Representatives
CAP GW.18
P.O. Box 2910
Austin, Texas 78711

Re: Request for Attorney General Opinion

Dear Representative Krusee:

On behalf of The Meadows at Chandler Creek Municipal Utility District, (the "District"), I am requesting that you seek a written opinion from the Attorney General of the State of Texas pursuant to your authority under Section 402.042 of the Texas Government Code. Specifically, the District would like an opinion from the Attorney General in response to the following question:

May a person employed as a part-time teacher at a local community college that receives funding from the State of Texas be compensated for his service on the board of a municipal utility district?

The board member in question is a part time teacher at Austin Community College. He was appointed as a Board member on January 18, 2005, and he has served since that time without compensation.

Article XVI, section 40 of the Texas Constitution provides that no person shall hold more than one civil office of emolument at the same time. Historically, employees of the State have been allowed to serve as officers of school districts, cities, and other local governmental as long as they do not receive compensation for that service. In 2001, the Texas Constitution was amended to permit schoolteachers, retired schoolteachers, and retired school administrators to receive compensation for their service as members of the governing bodies of water districts including municipal utility districts. Tex. Const., Article XVI, § 40(b)(1).

In 2003, Article XVI, Section 40(b)(2) was added to the Texas Constitution to provide that a faculty member or retired faculty member of a public institution of higher education may also receive compensation for servicing on the governing body of a water district. However, we note that the term "faculty member" is defined by Section 51.101 of the Education Code as:

[A] person who is employed by an institution of higher education on a full-time basis as a member of the faculty or staff and whose duties include teaching, research, administration, including professional librarians, or the performance of professional services.

Therefore, it is unclear whether the provisions for compensation of schoolteachers and college faculty members apply to part-time employees. It seems that the amendments to the Texas Constitution may have contemplated that all schoolteachers and college faculty members be allowed to receive compensation for their service on the governing bodies of water districts.

For this reason, the District respectfully asks you to solicit an Attorney General opinion that clarifies whether professors employed part-time at a university or college receiving funding from the State of Texas may receive compensation for their service as board members of a municipal utility district.

Thank you very much for your help in this matter. If you should have any questions, please contact the District's legal counsel, Phil Haag at 370-2823.

Sincerely

Nancy Beleckis, President
The Meadows at Chandler Creek
Municipal Utility District