

THE SENATE OF THE STATE OF TEXAS

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OPINION COMMITTEE

The Honorable Gregg Abbott
Attorney General of the State of Texas
Opinions Committee
P.O. Box 12548
Austin, Texas 78711

FILE # ML-45024-06
I.D. # 45024

Re: Assistant Police Chief Serving as a City Administrator

Dear General Abbott:

Please accept this letter as my request for an opinion to clarify several questions brought to my attention by my constituent Mr. Thomas Cones who is a City Councilman for the City of League City, Texas. Councilman Cones is requesting an explanation to the following:

- 1) Can the Assistant Chief of Police of League City abandon his Civil Service Position and accept another position within the same governmental body while continuing to maintain his Civil Service status?;
- 2) Can the Assistant Chief of Police take a leave of absence to serve as a City Administrator or does this amount to a resignation or absence without leave and prevent him from being reinstated to his position after serving as City Administrator?;
- 3) Can the Assistant Chief of Police serve at the same time as City Administrator or is this a conflict of interest or does it violate the Constitution or State Statutes?

Background:

On September 18, 1973, the City of League City, Texas adopted Civil Service Status for its Police Department under Chapter 143 of the Texas Local Government Code and established a Civil Service Commission. On August 8, 2006, the League City Council appointed the Assistant Chief of Police to the position of City Administrator. Two weeks later Council approved a salary and benefit package as well as a financial incentive plan for the purpose of creating longevity in the appointment.



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Since his appointment the Assistant Chief of Police has not sought or obtained a "leave of absence" from the Police Department in order to serve as the City Administrator. According to Chapter 143 of the Texas Local Government Code a leave of absence can only be granted for three reasons:

- 1) To attend a school or convention;
- 2) To serve in the military;
- 3) Due to illness or injury in the line of duty.

Additionally, Local Rule 5 of the League City Civil Service Commission states:

- "Failure to report for duty at the time and place designated by the proper superior office is hereby declared absence without leave, and unwillingness to work at some other place at some other time or at some other task or under some other conditions shall not prevent such action from being considered absence without leave. Nothing in this section or in other part of the League City Civil Service Rules shall be construed to give any officer or employee the right to take a leave of absence at his own discretion."

Thank you in advance for your attention to this matter. I hope the above information aids your research into the aforementioned questions. If you have any further questions please direct them to Robert Peeler in my Capitol office or you may contact Councilman Cones directly at (281)924-8686.

Sincerely,



Mike Jackson
State Senator
District 11