



ATTORNEY GENERAL OF TEXAS
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March 4, 2009

The Honorable Rob Eissler
Chair, Committee on Public Education
Texas House of Representatives
Post Office Box 2910
Austin, Texas 78768-2910

Opinion No. GA-0698

Re: Consequences attending a legislator's announcement
of his candidacy for Governor during the first year of a
two-year term (RQ-0736-GA)

Dear Representative Eissler:

You have requested that we answer the questions submitted by your colleague, Representative Leo Berman, former chair of the Committee on Elections. We were asked whether a legislator serving in the Texas House of Representatives must immediately resign that position after announcing his candidacy for Governor during the first year of a two-year term.¹ Multiple provisions within the Texas Constitution restrict certain officials from running for one elected office while serving a term in another office. For example, no person holding a "lucrative office" in state or federal government or in a foreign government is eligible for *the Legislature* during the term for which that person is elected or appointed. TEX. CONST. art. III, § 19. Similarly, certain district and county officials, upon announcing their candidacy for any other office, must resign the current office held. TEX. CONST. art. XVI, § 65(b). However, we find no constitutional or statutory authority that prohibits a legislator from running for Governor while continuing to serve as a legislator.

Texas law presumes that individuals are eligible to run for and hold office. *See Wentworth v. Meyer*, 839 S.W.2d 766, 768 (Tex. 1992) ("[W]e are bound to decide in favor of eligibility whenever possible . . ."). Given the lack of constitutional and statutory provisions restricting a state legislator from running for Governor, a legislator is not legally required to resign from that position upon announcing his or her candidacy for Governor.

We were also asked about the implications of a legislator announcing "the formation of an exploratory committee to consider a candidacy for [G]overnor during the first year of the two-year term." *See* Request Letter at 1. No Texas statutes speak to the formation of an exploratory committee or otherwise address consequences that may result from the formation of one. However, because we conclude that a legislator is not required to resign from office upon announcing his or her candidacy for Governor, a legislator is likewise not required to resign while exploring a possible candidacy for Governor.

¹Request Letter at 1 (*available at* <http://www.texasattorneygeneral.gov>).

S U M M A R Y

A legislator serving in the Texas House of Representatives who announces his or her candidacy for Governor during the first year of a two-year term is not required to resign from service in the House of Representatives. Because a legislator is not required to resign from office upon announcing his or her candidacy for Governor, a legislator is likewise not required to resign while exploring a possible candidacy for Governor.

Very truly yours,



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