



State of Texas
House of Representatives



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RQ-0335-KP

FILE# ML-48712-20

I.D.# 48712

The Honorable Ken Paxton
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

Re: Request for an opinion clarifying the application of Section 6.054 of the Texas Tax Code, which went into effect January 1, 2020

Dear Attorney General Paxton:

Please accept this request pursuant to Texas Government Code § 402.042 for an Attorney General opinion with respect to the following question:

May an employee of an appraisal district also serve as a non-officer member of a school district board of trustees which participates in the appraisal district in light of Texas Tax Code § 6.054, which goes into effect on January 1, 2020?

The 86th Texas Legislature passed Senate Bill 2 which provides, in part, for adding Section 6.054 to the Texas Tax Code. This new law, which went into effect January 1, 2020, provides as follows:

An individual may not be employed by an appraisal district if the individual is:

- (1) an officer of a taxing unit that participates in the appraisal district; or
- (2) an employee of a taxing unit that participates in the appraisal district.

TEXAS TAX CODE § 6.054

White Settlement Independent School District previously had a member of its board of trustees who is also an employee of the Tarrant Appraisal District, the appraisal district in which White Settlement ISD participates. This prior board member served as an officer of the Board of Trustees but relinquished his office, becoming a non-officer member of the Board, and then later resigned from the Board prior to January 1, 2020 to avoid any potential conflict with TEX. TAX CODE § 6.054. This person is not employed by White Settlement ISD.



Since this board member's resignation, citizens of the City of White Settlement have expressed interest in again re-electing this person to the White Settlement ISD Board of Trustees. If this person does not accept any officer positions and appointments on the Board of Trustees, would he be considered a non-officer under the new TEX. TAX CODE § 6.054 and be permitted to both serve as an ordinary member of the board of trustees and as an employee of the appraisal district?

The new Texas Tax Code § 6.054 prohibits an "officer" of a taxing unit from also being an employee of an appraisal district. While this Tax Code section does not define "officer," we are instructed in the Education Code that a board of trustees is considered to be a "body corporate." TEX. EDUC. CODE, § 11.051; see also Tex. Atty. Gen. Op. JC-0537 (2002). Accordingly, looking to corporate law, the Texas Legislature defines an "Officer" in the Business Organizations Code to be "an individual elected, appointed, or designated as an officer of an entity by the entity's governing authority or under the entity's governing documents." TEX. BUS. ORG. CODE, § 1.002 (61). Under this definition, an "officer" of a board is an individual elected or appointed by the board to serve in an officer's position, and in doing so becomes an "officer."

As for the remaining members of the board, the Legislature defines a "Director" as "an individual who serves on the board of directors." TEX. BUS. ORG. CODE, § 1.002 (16). Under this guidance from the Legislature, it would appear that a person serving on a board of trustees is considered to be "an individual" serving on the board until such a time as that person is elected or appointed by the board to serve as an "officer," after which time the person is considered an officer of the board. When that person ceases to be an officer, that person returns to a status of being an individual serving on the board.

We respectfully request clarification of this issue and will gladly provide briefing to your office if that would be helpful.

Thank you in advance for your consideration of this matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Charlie Geren".

Charlie Geren

Cc: Board of Trustees, White Settlement ISD