Attorney General Update

UT Law School Law Conference
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Andrew Tatgenhorst

Underwood Law Firm, P.C.

Simultaneous Office Holding (KP-0228)

- Issue: Whether a member of an independent school district board of trustees may simultaneously serve as the county judge
- A person may not serve as Jim Hogg County Judge while simultaneously serving as member of the Jim Hogg County Independent School District board of trustees.

Simultaneous Office Holding (KP-0228)

- Common law incompatibility prohibits a person holding two offices that are incompatible due to one of three components: self-appointment, self-employment, and conflicting loyalties.
- AG examines the conflicting loyalties component and notes that where the boundaries of the entities at issue overlap, "the potential for conflicting loyalties increases because the duties of the two offices are more likely to conflict."
- When "two districts with overlapping geographical jurisdictions each have the power of taxation, … the potential for conflict is insurmountable."
- Jurisdictions of both Jim Hogg County and the Jim Hogg County Independent School District overlap significantly, if not identically. Further, both entities have taxing authority within their respective boundaries.

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Continuous Employment Exception (KP-0238)

- Issue: Application of Government Code section 573.062, the nepotism continuous-employment exception, to a tax assessor-collector's sister-in-law.
- Government Code prohibits a public official from employing a person who is related to the public official by the specified degree of consanguinity or affinity.
- Exception: persons employed in a position for a specified continuous period of time prior to a relative's election or appointment to public office.

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Continuous Employment Exception (KP-0238)

- To the extent the tax office employs the sister-in-law in her current position for one year prior to the appointment of her relative as county tax assessor-collector, the sister-in-law's service and her continued employment does not violate chapter 573 of the Government Code.
- For purposes of calculating the period of continuous employment, the first day the employee is employed in her current position is the start date. The ending date is the date the individual appointed as tax assessor-collector assumes office.

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Fundamental Rights of Parents (KP-0241)

- Issue: The standards courts apply when balancing the rights of the state against the fundamental rights of parents to raise their children free from government intrusion.
- The Constitution protects certain fundamental parental rights, including the right of parents to make decisions concerning the care, custody, and control of their children, to direct the upbringing and education of their children, the right to make medical decisions on behalf of their children, and, in conjunction with the First Amendment, to guide the religious future and education of their children.

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