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OPINION COMMITTEE



STATE OF TEXAS
HOUSE OF REPRESENTATIVES

J.M. LOZANO

District 43

HIGHER EDUCATION, CHAIR • ENVIRONMENTAL REGULATION

FILE # ML-48261-17
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RQ-0198-KP

December 4, 2017

Attorney General Ken Paxton
P.O. Box 12548
Austin, TX 78711-2548

General Paxton:

As you know, the Texas Constitution's "resign to run" provision triggers the automatic resignation of certain public offices, including Sheriffs, if they "announce their candidacy, or shall in fact become a candidate" for statewide office. See Tex. Constitution Article XVI, Section 65. With the election season upon us, I have had two different "resign to run" questions raised by my constituents.

The first question raised is from a current local I.S.D. school board member in my legislative district. The board member was informed that she would automatically resign her position if she were to file for a position on the State Board of Education (SBOE). However, she was informed by the SBOE that a current member of the SBOE served on a local I.S.D. school board until his November 2016 election to the SBOE. He resigned after his November 2016 victory. Does a sitting local I.S.D school board member have to resign that seat if they become a candidate for the SBOE? If so, when would that resignation take place?

The second question raised by another constituent involves certain public office holders repeatedly making statements that may have triggered the "resign to run" requirement. Please assume a public officeholder covered by the "resign to run" provision of the Constitution made written or oral public statements that they are considering a run for governor, considering the next stage in their career, exploring a challenge to Republican Governor Greg Abbott, or other similar statements. Do these or similar statements implicate the automatic resignation provision under Article 16, Section 65 of the Texas Constitution? Based on these and similar statements, might a reasonable person conclude that the public officeholder intends to run for governor? And would such statements trigger a resignation of the current office?

Best Regards,

A handwritten signature in black ink that reads "J.M. Lozano".

J.M. Lozano
Chairman-Higher Education Committee
Texas House of Representatives