

Dual office holding

When can a prosecutor (or judge, city council member, or constable) hold another government position? Here is an updated chart to show when it's OK to take a second office.



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This chart provides a summary of Attorney General Opinions and caselaw on dual office holding. For positions not included below, the Attorney General's Office has provided a 24-page handbook to answer many possible questions; it may be found at www.oag.state.tx.us/AG_Publications/pdfs/dualoffice_easy.pdf.

Position 1	Position 2	OK?	Authority
Assistant DA	Municipal utility district, elected director	Yes, no salary	LO-88-19
Assistant DA	School district board of trustees, same county	Yes	LO-89-082
Board of trustees, ISD (specific circumstances)	City council (and other boards)	No	LO-92-005; see also <i>Thomas v. Abernathy County Line Independent School District</i> ; 290 S.W. 152; JM-129; LO 90-52
Building inspector	Fire chief (same city)	Yes	<i>State ex rel. Beicker v. Mycue</i> , 481 S.W.2d 476
Candidate, county judge	Mayor	Depends	JM-553
Chief appraiser, multiple counties	Tax assessor/collector, multiple districts	Yes	JM-499
Chief deputy, county tax assessor-collector	Court reporter, county court	Yes	JM-1083
Chief of police, elected	Constable, elected, precinct within same city	No	JM-422
City administrator	Assistant police chief	No	GA-536
City councilmember	Member, school district board of trustees	No	LO-93-22
City councilmember	Member of the fire department	No	LO-97-034
City councilmember	Police officer (different city)	Yes	LO-93-27
City councilmember	Teacher at state college	Yes	LO-93-37
City councilmember	Chairman, board of director of university research foundation (non-profit corporation) (same city)	Yes	JM-1065
City councilmember	County commissioner	No	GA-15; LO 88-49
City councilmember	School trustee, state college	No	LO-93-22; <i>Thomas v. Abernathy County Line Indep. Sch. Dist.</i> , 290 S.W. 152

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Position 1	Position 2	OK?	Authority
City councilmember	Volunteer fire department (same city)	Yes	JC-199; see Tex. Loc. Gov't Code §21.003 (adopted in response to JC-199).
City councilmember	Director of a flood control district	Yes	LO-96-064
City councilmember	School board trustee (same city)	No	JM-634; JC-403
City councilmember	Director of a county water authority	No	LO-92-68
City councilmember	County special district employee	Yes	JM-1266
City councilmember	School district employee	Yes	JM-118; MW-230; JM-1266
City councilmember	Director of a navigation district	Yes	JM-1266
City councilmember	Reserve police officer	No	JM-386
City councilmember	County auditor	No	JM-133
City councilmember	Fire chief (same city)	No	MW-432
City councilmember	Selective service board member	Yes	GA-57; allowed as long as selective service system is on standby (no draft)
City councilmember	Justice of the peace	No	JM-395
City finance director	Temporary municipal judge	Yes	GA-199
City manager	Transit board	Yes	GA-538
City official	Political party precinct chair	Yes	JC-562
Constable	Bailiff	Yes	LO-92-73 (and salary OK per LO-97-060)
Constable	Jailer	Yes	JM-485
Constable	School board	Yes	JM-519
Constable	Deputy sheriff	Yes	GA-402
Constable	Groundwater district board	No	GA-214; GA-0540
Constable	Municipal fire fighter	Yes	C-270
Constable, elected	Public school teacher	Yes	LO-94-077
County attorney	Board of directors, county hospital	No	LO-97-100
County attorney	City attorney, same county	Yes, so long as not subject to Prof. Prosec. Act	JC-0054
County attorney	Assistant county attorney of neighboring county	Yes	GA-350
County attorney	School district board of trustees, same county	No; automatic resignation	LO-95-029
County attorney	Special prosecutor, another county	Yes, no salary	JM-763
County attorney, elected	City prosecutor, same county	Yes	LO-96-148
County attorney, elected	Professor, part time, state university	Yes	LO-90-039
County commissioner	Board of trustees, community college (same county)	No	JM-129
County commissioner	Reserve deputy sheriff	Yes	LO-97-081
County commissioner	Municipal judge	Yes	GA-348
County court at law judge	Trustee, independent school district	No	JM-213

Position 1	Position 2	OK?	Authority
County EMS employee	Municipal justice of the peace	Yes	GA-569
County judge	Administrator, county EMS, same county	No	LO-94-46
County judge	Director, river authority	No	JM-594
County judge	Practicing attorney, same county	Gray area	JC-0033; see also Govt. Code §82.064 and Code of Prof. Resp. Rule 1.06
County judge	Records management officer, same county	Yes	LO-90-062
County judge	Texas Board of Criminal Justice	No	LO-95-052
County tax assessor-collector	Trustee, independent school district	No; automatic resignation	LO-92-004
District attorney	Teaching position, state university	Yes	LO-93-96
Dept. of Public Safety officer	Governing bodies; any 'public office'	No	JM-588
Deputy constable	Assistant city fire chief	Yes	DM-156
Deputy district clerk	Deputy county clerk	Yes	MW-415
Deputy sheriff	School trustee	Yes	O-3308 (1941)
Director of a municipal utility	Member of planning and zoning commission	No	JC-339
District clerk	Reserve deputy sheriff	Yes	LO-98-035
District judge	School district board of trustees, same district	No; automatic resignation	LO-98-094
Election clerk	Off-duty school district employee	Yes	JM-862
Former district judge, sitting by assignment (and available for assignment)	Teaching position, state university	Yes	LO-98-109
Investigator, DA's office	Trustee, independent school district	Yes, no salary	LO-95-001
Justice of the peace	City council	No; automatic resignation	JM-395
Justice of the peace	Deputy sheriff or deputy constable, unpaid	No, unless another county	LO-92-35
Justice of the peace	Jailer	No	JM-1047
Justice of the peace	Juvenile law master, same county	Yes	LO-96-078
Justice of the peace	Public school teacher	Probably yes	See Attorney General publication "Traps for the Unwary," part IV
Justice of the peace, appointed	Municipal judge, part time, city within JP's precinct	Yes	JM-819, overruling in part JM-422, reinstating LO-2055
Local public official, elected	Employee of state legislator	Yes; salary allowed in some cases	LO-98-039
Marshal	Constable	No	<i>Torno v. Hochstetler</i> , 221 S.W. 623
Mayor	Hospital district director	No	JC-363

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Position 1	Position 2	OK?	Authority
Municipal employee	Member, city commission, elected	No, but need not resign to run	LO 97-034
Municipal judge	Director, Gulf Coast Waste Disposal Authority	No	JC-0095, LO-98-124
Municipal judge	Junior college trustee	Yes	JC-0216
Municipal judge	Board of directors river authority	No	LO-97-027
Municipal judge	Municipal judge, another district	Usually no; never if elected to both	DM-428
Municipal police officer	City council, different city (uncompensated)	Yes	LO-95-048
Peace officer	Commission from more than one agency	Case-by-case	GA-0214
Police chief	School trustee	Yes	GA-393
Police officer	City council, another jurisdiction	Yes	LO-93-27
Police officer	Police officer, another city	No	LO-92-36
Police officer	Municipal judge (different city)	Legally yes, but no	LO-93-59, but see State Commission on Judicial Conduct PS-2000-1
Police officer	Part-time security officers	Yes	DM-212
Police officer	County road & bridge dept. employee	Yes	JM-862
Polygraph examiner for district attorney's office	Municipal judge	Unclear	GA-551
Secretary, district attorney	Court reporter (occasional), same county	Yes	JM-163
School board trustee	County or precinct chair of political party	Yes	JC-537
School board trustee	Groundwater conservation district	No	JC-557
School board trustee	County treasurer	Yes	JC-490
School board trustee	Teacher	No	LO-97-034; LO-90-045; LO-89-057; LO-89-002; LA-114
School district board trustee	Volunteer teacher	No	JC-371
School trustee	Water improvement district board	No	GA-224
School trustee	County improvement district board	No	GA-307
School trustee, college district	Municipal utility director	No	GA-32
School trustee state college	City council	No	LO-93-22, <i>Thomas v. Abernathy ISD</i> , 290 S.W. 152
Sheriff	Volunteer fire fighter	Yes	LO-93-54
Sheriff	School trustee	No	GA-328
State legislator	Independent contractor for county government	Yes	LO-95-022
State representative	Assistant county attorney	No	JC-0430
State Supreme Court justice	Board of directors, State Justice Institute	No	DM-49 *