



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 80- 152

The Honorable Norman E. Justice
State Representative--Thirty-Fourth District
506 Washington Blvd.
Kansas City, Kansas 66101

Re: Cities of the First Class--Public Utilities--
Candidates for Board of Public Utilities

Synopsis: Neither state nor federal law requires a municipal housing authority officer or employee to resign from his or her position to become a candidate for election to the Kansas City, Kansas board of public utilities. Cited herein: 5 U.S.C.A. §§1501(4), 1502(a)(3), 1503.

* * *

Dear Representative Justice:

You have asked for our opinion whether a person who works for the Kansas City, Kansas housing authority must resign his job if he becomes a candidate for office as a member of the Kansas City, Kansas board of public utilities. You advise that the housing authority is funded in part with grants from the federal government, and you inquire whether federal laws would impose any limitation on a housing authority officer or employee's candidacy for the board office.

We can find no provision in Kansas law requiring a city agency employee to resign to seek election to the board of public utilities. We note that under federal law, a state or local officer or employee "whose principal employment is in connection with an activity . . . financed in whole or in part by loans or grants made by the United States or a Federal agency" may not be a candidate for elective office. See 5 U.S.C.A. §§1501(4), 1502(a)(3). Notably, however, the federal statutes make an exception for non-partisan candidacies. 5 U.S.C.A. §1503 provides as follows:

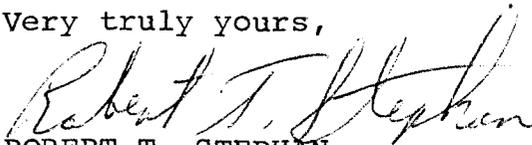
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"Section 1502(a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were elected."

The elections for membership on the city's board of public utilities are non-partisan. Thus, federal law would not prohibit the housing authority officer or employee about which you inquire from seeking election to the board while holding his or her present position.

In summary, we conclude that neither state nor federal law requires a housing authority officer or employee to resign from his or her position to become a candidate for election to the Kansas City, Kansas board of public utilities. Of course, if the candidate's campaign activities so divert his or her attentions as to adversely affect job performance, the housing authority may deem it appropriate to dismiss the employee for neglect of duty. But, except for the possibility of dismissal on this ground, we are aware of no other limitation on the officer or employee's candidacy for the board office.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Steven Carr
Assistant Attorney General

RTS:BJJ:SC:pf