



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN
ATTORNEY GENERAL

February 23, 1989

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 89- 21

Jerry R. Wilson
Oswego City Attorney
703 5th Street
P.O. Box 210
Oswego, Kansas 67356

Re: Elections--School District Elections--Candidates
for Elections

Synopsis: There are no statutory obstacles to a city treasurer of a city of the second class having the mayor-council form of government simultaneously holding the office of member of the board of education of a unified school district. Moreover, the common law doctrine of incompatibility of offices does not preclude either of such simultaneous incumbencies. Cited herein: K.S.A. 25-2020.

*

*

*

Dear Mr. Wilson:

You have inquired whether the city treasurer of the city of Oswego may simultaneously hold the office of member of the board of education of the unified school district encompassing the city of Oswego.

The several subsections of K.S.A. 25-2020 provide generally that any person who is an elector in a unified school district may become a candidate for election to the board thereof. There does not appear to be any statutory prohibition which

would prevent a city treasurer of a city of the second class from serving as a board of education member.

The question of incompatibility of offices was discussed in Dyche v. Davis, 92 Kan. 971 (1914), where the court stated as follows:

"Offices are incompatible when the performance of the duties of one in some way interferes with the performance of the duties of the other. This is something more than a physical impossibility to discharge the duties of both offices at the same time. It is an inconsistency in the functions of the two offices." 92 Kan. at 977.

A comparison of the statutory duties of the respective positions does not suggest that any incompatibility exists which would prevent one individual from holding both offices. Accordingly, it is our opinion that there are no statutory obstacles to a city treasurer of a city of the second class simultaneously holding the office of member of the board of education of a unified school district. Moreover, the common law doctrine of the incompatibility of offices does not preclude either of such simultaneous incumbencies.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:JLM:TRH:jm