Dual office holding, development district

Number: INFORMAL

Date: December 13, 2006

Mr. Hector O. Clemente
Facilities Management Division
Administrative Services Department
Orange County Board of Commissioners
13933 Eylewood Drive
Winter Garden, Florida 34787

Dear Mr. Clemente:

You ask whether you may simultaneously serve as a member of the state's Education Practices Commission and as a supervisor of the Stoneybrook West Community Development District.

Article II, section 5(a), Florida Constitution, provides in part:

"No person shall hold at the same time more than one office under the government of the state and the counties and municipalities therein, except . . . any officer may be a member of a . . . statutory body having only advisory powers."

This constitutional provision prohibits a person from simultaneously serving in more than one state, county, or municipal office, regardless of whether elected or appointed. Article II, section 5(a), Florida Constitution, however, refers only to state, county, and municipal offices. It is not applicable to independent special district offices.

The Florida Supreme Court in *In re Advisory Opinion to the Governor*,[1] concluded that a member of a community college district board of trustees was an officer of a special district and thus not a state, municipal, or county officer within the meaning of article II, section 5(a), Florida Constitution. The Court held that the dual officeholding prohibition did not keep a state, county, or municipal officer from serving on a community college board of trustees. This office has similarly concluded that an office of an independent special district does not constitute an office for purposes of the constitutional dual officeholding prohibition.[2]

Accordingly, Article II, section 5(a), Florida Constitution, would not prohibit your simultaneous service as a member of the state's Education Practices Commission and on the governing board of an independent special district.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tfl

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[1] 630 So. 2d 1055, 1058 (Fla. 1994).

[2] *See, e.g.*, Ops. Att'y Gen. Fla. 00-17 (2000) (fire chief or commissioner of North Naples Fire Control and Rescue District may be appointed to firefighters' pension board); 02-22(2002) (fire protection district); 02-49 (2002) (city pension board member may serve on water control district); and 02-83 (2002) (water control district commissioner may serve as city commissioner).