

Opinion No. 54-5950

May 19, 1954

BY: RICHARD H. ROBINSON, Attorney General

TO: Richard E. Strahlem State Director Department of Public Welfare Santa Fe, New Mexico

{*407} Replying to your letter dated May 7, 1954, you state that an inter-community water supply association is being considered by certain municipalities in Otero and Lincoln counties and that the municipalities of Ruidoso and Capitan have suggested your appointment as a director of the association in view of the fact that in your capacity as Welfare Director, you are also director of the Ft. Stanton Medical Center.

You inquire first, is it proper or compatible for you to accept such an appointment since you are also a state officer and would serve at the pleasure of the municipalities.

In State ex rel Chapman vs. Truder, 35 N.M. 49, the Supreme Court held that the office of district attorney and mayor of a city are not incompatible and may be held by one person at one and the same time. By analogy, it appears that it would not be incompatible for you to serve as a state officer and at the same time as a director of the local inter-community water supply association. Whether or not it is proper for you to serve as a matter of policy to be decided by you.

You next inquire that if you accepted the appointment and were unable to attend meetings of the board of directors regularly, would it be possible for you to be represented by another official of the Welfare Department at such meeting.

You certainly could be represented by another official at your option, however, your representative would not be entitled to act officially for you as a director of the association but could only convey your ideas and inform you as to the business transacted.

You next ask whether the Attorney General would be willing to designate a member of his staff as state representative on the board of directors.

Since the Attorney General is your legal adviser and might possible be called upon to represent the Ft. Stanton Medical Center officially in connection with water rights or business in connection with the inter-community association, it is felt that a member of the Attorney General's staff should not be designated or act as a member of the board of directors of the local association.

By: C. C. McCulloh

Assist. Attorney General