

LIBRARIES: LOCAL AND REGIONAL LIBRARIES.

CONSTITUTION OF VIRGINIA: LEGISLATURE - LOCAL GOVERNMENT.

Constitutional provisions containing required qualifications for General Assembly members and prohibition against multiple officeholding at local level do not prohibit member of House of Delegates from serving simultaneously as member of Loudoun County Library Board.

The Honorable Richard H. Black

Member, House of Delegates

February 16, 1998

You ask whether you may continue to serve as a member of the Loudoun County Library Board while you serve as a member of the House of Delegates.

You advise that you were appointed by the Loudoun County Board of Supervisors to a four-year term on the Loudoun County Library Board. You recently were elected to the House of Delegates. You state that you desire to continue to serve on the county's Library Board while serving as a delegate from the 32nd House District.

The qualifications to hold state office are set out in Article II, § 5 of the Constitution of Virginia (1971), which provides

The only qualification to hold any office of the Commonwealth or of its governmental units, elective by the people, shall be that a person must have been a resident of the Commonwealth for one year next preceding his election and be qualified to vote for that office, except as otherwise provided in this Constitution, and except that:

* * *

(c) nothing in this Constitution shall limit the power of the General Assembly to prevent conflict of interests, dual officeholding, or other incompatible activities by elective or appointive officials of the Commonwealth or of any political subdivision.

Specific constitutional provisions contain the required qualifications for General Assembly members¹ and the prohibition against multiple officeholding at the local level.² I am not aware of any statute that specifically prohibits a member of the General Assembly from serving as a member of a library board.

A prior opinion of the Attorney General, however, concludes that the position of member of a library board is a public office.³ Because the position is a public office, it is necessary to consider whether the doctrine of incompatible offices is applicable. Article IV, § 4 prohibits any person "holding a salaried office under the government of the Commonwealth" from serving as a member of the General

Assembly. Section 42.135 of the *Code of Virginia*, however, specifically provides that a member of a library board "shall not receive a salary or other compensation for services as a member." The use of the word "shall" in § 42.135 indicates that the General Assembly intended its terms to be mandatory.⁴

It is, therefore, my opinion that there is no legal prohibition against your serving as a member of the Loudoun County Library Board while serving as a member of the House of Delegates.

¹See Art. IV, § 4.

²See Art. VII, § 6.

³1993 Op. Va. Att'y Gen. 27, 30 (public position is "office" if (1) position is created by Constitution or by statute and is for fixed term; (2) position is filled by election or appointment; and (3) position has designation or title, and law imposes public duties on person holding position).

⁴See Op. Va. Att'y Gen.: 1994 at 64, 68; *id.* at 71, 72; 19861987 at 300, 300, and opinions cited therein.
