S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
PO BOX 20207
NASHVILLE, TENNESSEE 37202

June 4, 2001

Opinion No. 01-090

Etowah City Manager Serving As General Manager

QUESTION

Is it legal for the Etowah City Manager to also serve as the General Manager of the Etowah Utilities under the City Charter?

OPINION

Yes.

ANALYSIS

You have asked whether it is legal for the Etowah City Manager to also serve as the General Manager of the Etowah Utilities under the City Charter. The City of Etowah first received its charter in 1909 by private act of the General Assembly. 1909 Tenn. Priv. Acts Ch. 116. In 1964, Etowah became a home rule municipality, as authorized in Art. XI, § 9 of the Tennessee Constitution. Thereafter, in 1984, the city adopted a comprehensive new charter, through passage of Ordinance No. 389. Art. VIII, § 1 of the Etowah City Charter provides that the City Commission shall appoint a City Manager, based solely upon executive qualifications. Pursuant to Art. IX, § 1, the City Manager is to be the administrative head of the municipal government under the supervision of the City Commission and "shall be required to give his full time to the duties of his office." Art. XXIII, § 11 provides that the Etowah Utilities Board shall appoint a General Manager of the system and, that the City Manager may, at the discretion of the Board, be the General Manager of the Etowah Utilities Board. The Board itself is comprised of five members who are the same five persons as the City Commissioners, unless provided otherwise by adoption of an ordinance by the City Commission. *See* Art. XXIII, § 5.

Thus, under the Etowah City Charter, the City Manager is specifically authorized to serve as the General Manager of the Etowah Utilities Board, in the Board's discretion. As already noted, Etowah is a home rule municipality, however, we are not aware of any general law of mandatory statewide application with which this provision is inconsistent. Nor are we aware of any other state law that would prohibit the City Manager from also serving as the General Manager of the Utilities Board. Accordingly, it is our opinion that the City Manager may also serve as the General Manager of the Etowah Utilities Board under

the Etowah City Charter.

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

JANET M. KLEINFELTER
Senior Counsel

Requested by:

Representative Robert S. McKee
203 War Memorial Building
Nashville, TN 37243-0123