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February 28, 2024

Dave Yost  
Ohio Attorney General  
Opinions Section  
*OpinionsRequest@OhioAttorneyGeneral.gov*  
Sent via email only

Re: Compatibility of Positions

Dear Attorney General Yost:

I am requesting an opinion regarding whether an employee of the Brown County Engineer's Office may also serve as a fiscal officer for Lewis Township, Brown County, Ohio. This individual is a long-time employee of the engineer's office who was appointed to fill a vacancy as fiscal officer. He was recently elected to a new term as fiscal officer beginning April 1, 2024.

I did search the Compatibility Opinions Index and found a decision from 1972 that determined that a township clerk and employee of a county highway department were incompatible based on a conflict-of-interest analysis involving a situation where the township clerk might be ordered to appear before the budget commission to defend the township budget and be tempted to subordinate his interests in that budget in favor of the budget for the county highway department. See 1972 Op. Att'y Gen. No. 1972-109. However, in later Attorney General opinions, this rationale has been determined to be speculative and did not render similar positions incompatible. See 1999 Op. Att'y Gen. No. 1999-046 (township clerk and clerk of a board of commissioners).

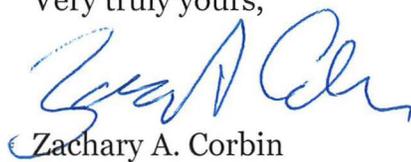
Additionally, more recent opinions have determined that the fiscal officer is not tasked with the duty to prepare the township's tax budget or present it to the county budget commission; that duty falls on the township trustees. Therefore, the Attorney General opined that a township fiscal officer is not subject to conflicts of interest involving the township's budget or obtaining money from the county budget commission. 2007 Op. Att'y Gen. No. 2007-023, at 2-239.

Finally, 2014 Op. Att’y Gen. No. 2014-022 held that “[e]ven if the township fiscal officer is required to appear before the county budget commission, the fact that she holds additional public positions with a political subdivision that competes with the township for moneys generated within the ten-mill limitation and moneys from the undivided local government fund is, by itself, an insufficient reason to find that the township fiscal officer is subject to an impermissible conflict of interest.” *Id.* at page 11.

Based on the analysis of the newer compatibility decisions, it appears that the rationale behind the 1972 opinion is outdated. As such, I am requesting a formal opinion as to the compatibility of an employee of the county engineer’s office and a township fiscal officer.

Please let me know if you have any questions or if you require any additional information.

Very truly yours,



Zachary A. Corbin  
Prosecuting Attorney  
Brown County, Ohio