

for the latter purpose is found in Section 9885, General Code, which relates to cases in which the title is in the society.

From what has been said it is clear that the facts in your case are entirely different from those under consideration in the 1923 opinion. A careful study of said opinion indicates that if the then Attorney General had been considering facts similar to those you present, the opposite conclusion in all probability would have been reached.

In view of the foregoing, it is my opinion that where the title to the grounds used by a county agricultural society is in the county, the society may not mortgage same either with or without the consent of the county commissioners for the purpose of paying pre-existing debts.

It is believed a more specific answer to your inquiry is unnecessary.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

3206.

APPROVAL, BONDS OF WEST LOVELAND RURAL NO. 7 SCHOOL DISTRICT, HAMILTON AND CLERMONT COUNTIES, OHIO—\$10,500.00.

COLUMBUS, OHIO, May 5, 1931.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*

3207.

OFFICES COMPATIBLE—CITY BOARD OF HEALTH MEMBER AND LABORER IN SUCH CITY'S WATERWORKS DEPARTMENT.

*SYLLABUS:*

*A member of a municipal board of health may be employed by the city waterworks department as a laborer.*

COLUMBUS, OHIO, May 8, 1931.

HON. H. G. SOUTHARD, *Director of Health, Columbus, Ohio.*

DEAR SIR:—Your recent opinion request reads as follows:

“In the city of Mansfield there is a member of the Board of Health who has served in this capacity for several years. In the past few weeks he has been employed by the City Water Works Department as a laborer. The question has been raised that this man could not serve as a member of the Board of Health and also as an employe of the Water Works Department.

I shall be glad to have your opinion as to whether or not there is any incompatibility in these two employments."

In determining the possible incompatibility of public offices or employments, one must consider whether or not there exists a statutory prohibition against such employments, or whether or not one is subordinate to or in any way a check upon the other, or if it would be physically possible for one person to discharge the duties of both positions concurrently.

An examination of the statutes pertaining to the office of a member of a municipal board of health does not disclose any statutory inhibition against such member being employed as a laborer by the city waterworks department.

An opinion of the Attorney General found in Vol. I, Opinions of the Attorney General for 1918, p. 894, held as disclosed by the syllabus that the positions of municipal director of public service, who has charge of the municipal waterworks, and municipal health officer are compatible if it is physically possible for one person to perform the duties of both positions. An examination of the enactments since the rendition of this opinion does not disclose any provisions inconsistent with this holding.

If the position of director of public service and municipal health officer may be held concurrently, it would seem that since a member of a municipal board of health may exercise a like or lesser degree of supervisory authority over a municipal waterworks or its distribution system than a municipal health officer, the above opinion impels the conclusion that the employments in question are compatible. The same reasoning is applicable to the employment of a laborer under the direction of a director of public service.

A consideration of the duties of a member of a municipal board of health discloses no reason for prohibiting the concurrent employment in question on the basis of physical impossibility.

It should be noted that a municipal health district is a political entity separate and apart from the municipal corporation. Opinions of Attorney General for 1930, No. 2256. It follows therefrom that sections prohibiting one connected with a municipal corporation from having an interest in an expenditure of the municipality, would have no application in the instant case.

In view of the foregoing, I am of the opinion that a member of a municipal board of health may be employed by the city waterworks department as a laborer.

Respectfully,

GILBERT BETTMAN,  
*Attorney General.*

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3208.

APPROVAL, BONDS OF BRADNER VILLAGE SCHOOL DISTRICT, WOOD COUNTY, OHIO—\$8,000.00.

COLUMBUS, OHIO, May 8, 1931.

*Retirement Board, State Teachers Retirement System, Columbus, Ohio.*