

OPINION NO. 99-046**Syllabus:**

A person serving as clerk of a board of county commissioners may also serve within the same county as township clerk, provided that he is not required to (1) prepare competing annual tax budgets for the county and township and present those budgets to the county budget commission, (2) perform duties or responsibilities on behalf of the county or township in accordance with the terms of a contract between the county and township entered into under R.C. 307.15, or (3) perform duties or responsibilities in accordance with the terms of any other contract between the county and township, other than to countersign an order disbursing

township moneys that are owed to the county under the contract. (1987 Op. Att'y Gen. No. 87-085, approved and followed; 1937 Op. Att'y Gen. No. 164, vol. I, p. 242; 1933 Op. Att'y Gen. No. 161, vol. I, p. 187; 1931 Op. Att'y Gen. No. 3513, vol. II, p. 1098; 1913 Op. Att'y Gen. No. 65, vol. II, p. 1096, questioned.)

To: William E. Peelle, Clinton County Prosecuting Attorney, Wilmington, Ohio
By: Betty D. Montgomery, Attorney General, August 31, 1999

You have requested an opinion whether the positions of clerk of the board of county commissioners and township clerk are compatible. You have indicated that the township is located within the county that employs the person as clerk of the board of county commissioners.

As a preliminary matter, 1987 Op. Att'y Gen. No. 87-085 addressed whether the positions of township clerk and clerk of a board of county commissioners are compatible when the positions are in different counties. Although that opinion concludes that the positions are, in most instances, compatible,¹ the opinion is not dispositive of your specific inquiry insofar as you have asked about the compatibility of these two positions when the positions are in the same county.

The following seven questions must be considered when determining whether two public positions are compatible:

1. Is either of the positions a classified employment within the terms of R.C. 124.57?
2. Do the empowering statutes of either position limit employment in another public position or the holding of another public office?
3. Is one position subordinate to, or in any way a check upon, the other?
4. Is it physically possible for one person to discharge the duties of both positions?
5. Is there a conflict of interest between the two positions?
6. Are there local charter provisions or ordinances which are controlling?
7. Is there a federal, state, or local departmental regulation applicable?

See 1979 Op. Att'y Gen. No. 79-111 at 2-367 and 2-368.

Questions six and seven concern the applicability of charter provisions, ordinances, and federal, state, and local departmental regulations. There are no applicable charter provisions, ordinances, or state or federal regulations. Whether there is an applicable local

¹ 1987 Op. Att'y Gen. No. 87-085 determined that a person may not hold simultaneously the positions of township clerk and clerk of a board of county commissioners in different counties when it is physically impossible for a person to perform the duties of both positions or the county and township have entered into a contract under R.C. 307.15 that obligates the township to pay the county for services rendered or that otherwise directly involves either position.

departmental regulation is a matter for local officials to determine. We will assume, for purposes of this opinion, that there is no local departmental regulation of either the county or township that prohibits a person from holding simultaneously the positions of township clerk and clerk of the board of county commissioners.

Question number one asks whether either of the positions is a classified employment within the terms of R.C. 124.57, which prohibits, *inter alia*, a classified officer or employee of a county or civil service township from participating in partisan political activity other than to vote as he pleases or express freely his political opinions. The position of township clerk is in the unclassified civil service because it is an elected position. *See* R.C. 124.11(A)(1); R.C. 507.01. You have informed us that the position of clerk of the board of county commissioners is in the unclassified civil service. *See* R.C. 124.11(A)(8). Because neither position is in the classified civil service, the prohibition of R.C. 124.57 does not apply. *Accord* 1987 Op. Att'y Gen. No. 87-085 at 2-567.

Question number two asks whether the empowering statutes of either position limit a person from being employed in another public position or holding another public office. There is no statutory prohibition against simultaneously holding the positions of township clerk and clerk of the board of county commissioners. *Accord* 1987 Op. Att'y Gen. No. 87-085 at 2-567 and 2-568. The second question thus may be answered in the negative.

Question number three asks whether one position is subordinate to, or in any way a check upon, the other. The clerk of the board of county commissioners is appointed by and serves at the pleasure of the board of county commissioners. *See* R.C. 305.13. A township clerk, as an elected official, *see* R.C. 507.01, serves and is responsible to the township electorate. The positions of township clerk and clerk of the board of county commissioners thus serve different masters and are not subordinate to each other. Moreover, the positions operate independently of each other, and neither is required to assign duties to, or supervise, the other. Therefore, neither position is subordinate to, or in any way a check upon, the other. *Accord* 1987 Op. Att'y Gen. No. 87-085 at 2-568.

Question number four asks whether it is physically possible for one person to perform the duties of both positions. Although this is generally a factual question that is best resolved by the local parties because they may more precisely determine the time demands of the respective positions, *see, e.g.*, 1999 Op. Att'y Gen. No. 99-019 at 2-135, several prior opinions of the Attorneys General have concluded that it is physically impossible for the clerk of a board of county commissioners to hold another position concurrently. *See, e.g.*, 1937 Op. Att'y Gen. No. 164, vol. I, p. 242; 1933 Op. Att'y Gen. No. 161, vol. I, p. 187; 1931 Op. Att'y Gen. No. 3513, vol. II, p. 1098; 1913 Op. Att'y Gen. No. 65, vol. II, p. 1096. These opinions focused on the language of R.C. 305.13, which provides that, "[i]f the board of county commissioners finds it necessary for the clerk of the board to devote his *entire time* to the discharge of the duties of such position, it may appoint a *full time* clerk." (Emphasis added.) Based on this language, these prior opinions determined that the clerk of the board of county commissioners could not legally hold another public office that receives a salary.

However, other opinions have determined that the language of R.C. 305.13 quoted above does not make it physically impossible for a clerk of the board of county commissioners to hold another position concurrently. *See, e.g.*, 1987 Op. Att'y Gen. No. 87-085; 1959 Op. Att'y Gen. No. 1031, p. 708; 1932 Op. Att'y Gen. No. 4884, vol. III, p. 1512. As stated in 1987 Op. Att'y Gen. No. 87-085 at 2-569:

The terms "full time" and "entire time" as used in R.C. 305.13 may be regarded as equivalent. R.C. 325.19(G)(1) [now R.C. 325.19(J)(1)] defines

a "full time employee" for purposes of calculating holiday and vacation benefits as one "whose regular hours of service for a county total forty hours per week, or who renders any other standard of service accepted as full-time by an office, department, or agency of county service." A full time clerk, then, must render either forty hours of work per week or "any other standard of service accepted as full-time" by the board of county commissioners. Thus the board of county commissioners has control over the amount of hours the clerk must devote to his duties. In addition, the board will prescribe the time and location of the clerk's service, since pursuant to R.C. 305.13 the county clerk must perform those duties prescribed by the board and must record the proceedings of the board. Nevertheless, as long as the county clerk is able to perform the duties of his position, R.C. 305.13 does not prohibit him from holding another position. (Citations omitted.)

After examining R.C. 305.13, it is our belief that this statute does not make it physically impossible for the clerk of a board of county commissioners to hold another public position that receives a salary. The purpose of R.C. 305.13 is to provide for the appointment of a full-time clerk to replace the county auditor, who, pursuant to R.C. 319.08, is required to perform the functions of the clerk of the board of county commissioners.² Under R.C. 305.13, a full-time clerk of the board of county commissioners is appointed when the board of county commissioners determines that it is necessary for the county auditor to devote his entire time to the discharge of the duties of the clerk's position. *See* 1924 Op. Att'y Gen. No. 1705, vol. I, p. 464, at 465; 1913 Op. Att'y Gen. No. 65, vol. II, p. 1096. In order to properly discharge the duties of full-time clerk of the board of county commissioners, a person appointed to that position must render forty hours of work per week or any other standard of service accepted as full-time by the board of county commissioners. *See* R.C. 325.19(J)(1); 1987 Op. Att'y Gen. No. 87-085 at 2-569.

R.C. 305.13 thus requires only that a person appointed as a full-time clerk of the board of county commissioners devote to that position forty hours of work per week or any other standard of service accepted by the board of county commissioners. If a person appointed to the position of full-time clerk of the board of county commissioners is able to devote forty hours of work per week or any other standard of service accepted by the board of county commissioners to the performance of his duties as clerk, the person is not prohib-

² R.C. 319.08 states:

If the board of county commissioners has not appointed a full-time clerk pursuant to section 305.13 of the Revised Code, the county auditor, by virtue of his office, shall be the secretary of the board. When requested, he shall aid the board in the performance of its duties. He shall keep an accurate record of its proceedings, and carefully preserve all documents, books, records, maps, and papers required to be deposited and kept in his office.

Accordingly, "[b]y virtue of his office, a county auditor is secretary of the board of county commissioners, and as such it is the duty of a county auditor to perform the functions of a clerk of the board of county commissioners." 1924 Op. Att'y Gen. No. 1705, vol. I, p. 464 (syllabus, paragraph one).

ited by R.C. 305.13 from holding another public position.³ *Accord* 1987 Op. Att'y Gen. No. 87-085.

Accordingly, whether it is physically possible for a person to competently discharge the duties of township clerk and clerk of a board of county commissioners remains a factual question that must be answered at the local level. It appears, however, that, if there is no direct conflict in the working hours of each position, the duties of these two positions may be discharged competently by the same person. *See* 1987 Op. Att'y Gen. No. 87-085 at 2-570 (since a township clerk has discretion with respect to the time and place of the performance of his official duties, it may be physically possible for him to perform the duties of clerk of the board of county commissioners). *See generally* 1960 Op. Att'y Gen. No. 1151, p. 94, at 96 ("a board of township trustees is without authority to regulate the duties of the township clerk and thereby require him to be present in the township office certain day-time hours each week").

Question five asks whether a person may confront a conflict of interest as a result of holding two different public positions simultaneously. Resolution of this particular question requires an examination of the powers, duties, and responsibilities of the respective positions in order to determine whether a person who serves simultaneously in the two positions would be subject to divided loyalties and conflicting duties or be exposed to the temptation of acting other than in the best interest of the public. *See* 1999 Op. Att'y Gen. No. 99-001 at 2-2 and 2-3.

The position of township clerk is responsible for recording the proceedings of the township trustees, R.C. 507.04, notifying the board of elections of vacancies in township offices and of township boundary changes, R.C. 507.051, administering oaths and certifying affidavits, R.C. 507.06, and recording bonds, R.C. 507.08. The township clerk is also the township's fiscal officer for purposes of R.C. Chapters 133 (uniform public securities law) and 5705 (tax levy law). R.C. 133.01(L)(9); R.C. 5705.01(D). In this capacity, a township clerk is responsible for handling various financial matters on behalf of the township. *See, e.g.,* R.C. 133.19 (prior to the passage of initial legislation providing for the issuance of R.C. Chapter 133 securities for purposes of permanent improvements, a township clerk must

³ As stated previously, the following opinions have found that the clerk of a board of county commissioners is barred by R.C. 305.13 from holding another public position that receives a salary: 1937 Op. Att'y Gen. No. 164, vol. I, p. 242 (the clerk of a board of county commissioners may not be employed by the building commission as secretary); 1933 Op. Att'y Gen. No. 161, vol. I, p. 187 (the clerk of a board of county commissioners may not serve as a deputy clerk of a county board of elections); 1931 Op. Att'y Gen. No. 3513, vol. II, p. 1098 (the clerk of a board of county commissioners may not act as bookkeeper at the Lake County Memorial Hospital); 1913 Op. Att'y Gen. No. 65, vol. II, p. 1096 (the clerk of a board of county commissioners may not at the same time act as deputy county auditor).

These opinions do not, however, consider whether the positions in question might be incompatible on other grounds. For example, the position of clerk of a board of county commissioners may be incompatible with another public position because the clerk may be subject to an impermissible conflict of interest or because the clerk's position is subordinate to, or acts as a check upon, the other position. This means that the conclusions reached in the foregoing opinions with respect to incompatibility may be warranted, but for reasons different than those enumerated in the opinions. Accordingly, since we have not here reexamined the compatibility of the positions considered in these opinions, we merely question their conclusions and do not summarily overrule them.

certify to the board of township trustees the estimate of the maximum maturity of the bonds and that all permanent improvements have an estimated life or period of usefulness of at least five years); R.C. 133.27(A)(4) (a township clerk is required to sign R.C. Chapter 133 securities on behalf of the township); R.C. 505.33 (certifies "to the county auditor the names of the property owners and a description of their lands which are delinquent as to waste disposal service charges"); R.C. 507.04 (keeps an accurate record of all the accounts and transactions of the board of township trustees); R.C. 507.07 (prepares an annual statement of receipts and expenditures of the township); R.C. 507.11 (incurs financial obligations on behalf of the township and countersigns all orders for payment of township moneys); R.C. 5705.03 (receives the proceeds of any township tax levy from the county).

The duties of the position of clerk of the board of county commissioners are ministerial in nature. The clerk is required to record the proceedings of the board of county commissioners, R.C. 305.10, and certify the records of these proceedings, R.C. 305.11. In addition, the clerk is required to perform other duties as assigned by the board of county commissioners. R.C. 305.13.

Our review of the powers, duties, and responsibilities of the two positions discloses that a potential conflict exists because of the competition over inside millage generated by the unvoted property tax. Both a county and a township must prepare, adopt, and submit an annual tax budget to the county budget commission. R.C. 5705.28-32. *See generally* R.C. 5705.01(A) (defining both a county and a township as a "subdivision" for purposes of R.C. Chapter 5705). After the annual tax budgets are submitted, the county budget commission revises and adjusts the estimate of balances and receipts from all sources for each fund within the county's and township's tax budget, R.C. 5705.32; *see* R.C. 5705.31, and adjusts the levies of the county and township within the limits of the law, R.C. 5705.31. Because revisions and adjustments made by the county budget commission directly affect the amount of inside millage generated by the unvoted property tax the county and township receive, the county and township are permitted to have a representative appear before the county budget commission to explain the financial needs of the county and township. R.C. 5705.32(E)(2).

As fiscal officer of the township, a township clerk may be required by the board of township trustees to assist in preparing the township's annual tax budget and in explaining it to the county budget commission. 1992 Op. Att'y Gen. No. 92-053 at 2-217. Similarly, a board of county commissioners may request its clerk to assist in the preparation and presentation of the county's annual tax budget to the county budget commission. 1958 Op. Atty Gen. No. 1962, p. 215, at 218; *see* R.C. 305.13. If a person were to assist in the preparation and presentation of both a township's and county's annual tax budget to the county budget commission, the person could be subject to influences that would prevent him from making completely objective, disinterested decisions. This potential conflict was fully explained in 1999 Op. Att'y Gen. No. 99-027 at 2-182 as follows:

If the same person prepares both the county's and city's tax budgets and explains them to the county budget commission, a conflict of interest is present because he must advocate a position on behalf of one to the potential detriment of the other. *See* 1993 Op. Att'y Gen. No. 93-048 at 2-236. An argument that the county or city is entitled to a certain level of funds means a reduced level of funds are available for the other's use. Accordingly, the competition for advantageous budget decisions could subject a person who holds the positions of assistant prosecuting attorney and member of the legislative authority of a city to influences that may prevent him from making com-

pletely objective decisions. See 1996 Op. Att'y Gen. No. 96-008 at 2-33; 1993 Op. Att'y Gen. No. 93-048 at 2-236.

The fact that a person who holds two public positions simultaneously is subject to a possible conflict of interest does not require a finding that the two positions are incompatible. 1979 Op. Att'y Gen. No. 79-111 at 2-372. Rather, "[w]here possible conflicts are remote and speculative, common law incompatibility or conflict of interest rules are not violated."⁴ *Id.* (syllabus, paragraph three). Factors used in determining whether a conflict of interest is remote and speculative include the remoteness of the conflict, the ability of the person to remove himself from the potential conflict, whether the person exercises decision-making authority in both positions, whether the potential conflict involves the primary functions of each position, and whether the conflict involves budgetary controls. *Id.* at 2-372.

In regard to your specific inquiry, it is speculative whether this person, as either township clerk or as clerk of the board of county commissioners, will be required to prepare the township's or county's annual tax budget or present it to the county budget commission. Pursuant to R.C. 5705.28, the taxing authority of each township and county shall adopt a tax budget. For purposes of R.C. Chapter 5705, "taxing authority" means the board of township trustees in the case of a township and the board of county commissioners in the case of a county. R.C. 5705.01(C). Thus, neither a township clerk nor the clerk of a board of county commissioners is required by statute to prepare an annual tax budget or present it to the county budget commission. It is, therefore, unlikely that the person, as township clerk or clerk of the board of county commissioners, will be required to prepare the township's or

⁴ In your letter, you state that you are "uncertain how to resolve the question of indirect or potential conflicts." You have indicated that some Attorney General opinions have determined that the possibility of a conflict of interest automatically renders two positions incompatible, while other opinions have found that remote and speculative conflicts of interest do not automatically render two positions incompatible.

1979 Op. Att'y Gen. No. 79-111 at 2-372 addressed the issue whether possible conflicts of interest are sufficient to render two public positions incompatible and stated:

It has been stated that the "fact that a conflict in interest is a mere possibility and not inevitable does not make the offices any the less incompatible." On the other hand, several opinions have concluded that where possible conflicts are remote and speculative, the common law incompatibility or conflict of interest rules are not violated.

It is my opinion that the better view is that no hard and fast rule should be laid down with respect to the question of whether a potential conflict will render positions incompatible, but that each compatibility question should be decided upon its particular facts Thus, not all potentialities for conflict will render positions incompatible, and to the extent that the earlier opinions cited herein state categorically that any possibility thereof necessitates a finding of incompatibility, they are hereby disapproved. (Citations omitted.)

Subsequent opinions have consistently approved and followed 1979 Op. Att'y Gen. No. 79-111's conclusion that the mere possibility of a conflict of interest does not render two public positions incompatible. It is, therefore, appropriate to examine the immediacy of a conflict of interest in order to determine whether it is sufficient to render two positions incompatible.

county's annual tax budget or present it to the county budget commission. *See, e.g.*, 1999 Op. Att'y Gen. No. 99-018 at 2-132 (it is unlikely that a township clerk will be required to defend the township's tax budget before the county budget commission). *See generally* 1996 Op. Att'y Gen. No. 96-008 at 2-33 and 2-34 ("[i]t is generally unlikely that a clerk-treasurer of a village and a clerk of a joint township fire department will be required to defend their subdivision's tax budget since neither exercises decision-making authority with respect to the preparation of their subdivision's budget").

In addition, decision-making authority with respect to the preparation or presentation of a township's and county's annual tax budget is vested in the township trustees and the county commissioners, respectively. *See* R.C. 5705.28. The positions of township clerk and clerk of a board of county commissioners thus do not exercise independent decision-making authority in the preparation and presentation of annual tax budgets. Also, the preparation and presentation of annual tax budgets is not a primary statutory function of either a township clerk or the clerk of a board of county commissioners.

Moreover, the fact that this potential conflict of interest involves budgetary matters is not sufficient in and of itself to result in a finding of incompatibility. As explained previously, this conflict is unlikely to occur and neither position exercises independent decision-making authority with respect to the preparation and presentation of annual tax budgets. *See* R.C. 5705.28. Even if this person, either as township clerk or as clerk of the board of county commissioners, were required by the board of township trustees or the board of county commissioners, respectively, to prepare and present an annual tax budget to the county budget commission, it is reasonable to presume that the person would use his best judgment in preparing and presenting that budget. *See generally State ex rel. Speeth v. Carney*, 163 Ohio St. 159, 126 N.E.2d 449 (1955) (syllabus, paragraph ten) ("[i]n the absence of evidence to the contrary, public officials, administrative officers, and public authorities, within the limits of the jurisdiction conferred upon them by law, will be presumed to have properly performed their duties in a regular and lawful manner and not to have acted illegally or unlawfully"). Accordingly, the potential conflicts of interest arising because of the competition over inside millage generated by the unvoted property tax are, as a general matter, remote and speculative.

However, such conflicts of interest are not remote and speculative when the person, as township clerk and as clerk of the board of county commissioners, is required by both the board of township trustees and the board of county commissioners to prepare and present competing annual tax budgets to the county budget commission. An impermissible "conflict of interest exists where one person, who owes a duty of loyalty to each of two different governmental entities, is required to advocate a position on behalf of one entity to the potential detriment of the other." 1999 Op. Att'y Gen. No. 99-018 at 2-131.

A person who serves simultaneously as a township clerk and as clerk of a board of county commissioners could not avoid assisting in the preparation and presentation of competing annual tax budgets if both the board of township trustees and board of county commissioners require the person to prepare its annual tax budget and present it to the county budget commission. *See generally* R.C. 305.13 (a clerk of the board of county commissioners may be required to perform additional duties on behalf of the board of county commissioners); 1992 Op. Att'y Gen. No. 92-053 at 2-218 ("a township clerk cannot avoid appearing before the county budget commission if the township trustees require him to defend the township tax budget"). A person who simultaneously holds, within the same county, the positions of township clerk and clerk of the board of county commissioners thus is subject to an impermissible conflict of interest when he is required by both the board of

township trustees and the board of county commissioners to prepare and present competing annual tax budgets. Therefore, potential conflicts of interest arising because of the competition over inside millage generated by the unvoted property tax are remote and speculative and do not render the positions of clerk of the board of county commissioners and township clerk incompatible, unless a person who holds these two positions is required by both the board of township trustees and the board of county commissioners to prepare and present competing annual tax budgets.

Other potential conflicts of interest exist because the county and township may enter into contracts with one another. 1987 Op. Att'y Gen. No. 87-085 at 2-571; *see, e.g.*, R.C. 9.60 (authorizing a county and township to enter into a contract whereby the county or township provides fire protection to the other); R.C. 307.15 (authorizing a county and township to enter into a contract whereby the county or township is authorized to exercise any power, perform any function, or render any service on behalf of the other). If the county and township were to enter into a contract with one another, the contract might involve either the position of township clerk or clerk of the board of county commissioners. For instance, if the county and township were to enter into a contract whereby the county performs a service on behalf of the township that requires the township to pay the county, the person, as township clerk, would be required to countersign any order disbursing township moneys to the county due under the contract. R.C. 507.11(B); *see* R.C. 5705.41(D). The person, as township clerk or as clerk of the board of county commissioners, could also be required to perform duties or responsibilities on behalf of the county or township in accordance with the terms of a contract between the county and township entered into under R.C. 307.15, or to perform duties or responsibilities in accordance with the terms of any other contract between the county and township. *See* 1987 Op. Att'y Gen. No. 87-085 at 2-571. In addition, the board of county commissioners could require its clerk to negotiate, on its behalf, the terms of a proposed contract between the county and township. *See* R.C. 305.13.

Our examination of the immediacy of these potential conflicts of interest, however, indicates that the conflicts are remote and speculative. It is speculative whether the county and township will enter into a contract that requires the township to pay the county, or whether the board of county commissioners will require its clerk to negotiate, on its behalf, a proposed contract between the county and township. *See* 1987 Op. Att'y Gen. No. 87-085 at 2-571. It is also speculative whether the county and township will enter into a contract that requires the person, as township clerk or as clerk of the board of county commissioners, either to perform duties or responsibilities on behalf of the county or township in accordance with the terms of a contract between the county and township entered into under R.C. 307.15, or to perform duties or responsibilities in accordance with the terms of any other contract between the county and township. *Id.*

Moreover, these two positions do not exercise discretionary authority with respect to entering into contracts, *see, e.g.*, R.C. 9.60; R.C. 307.15, and the position of township clerk does not exercise such authority in regard to countersigning orders to pay out township moneys. *See generally* 1996 Op. Att'y Gen. No. 96-008 at 2-34 (the act of certifying a warrant is ministerial in nature). Because it is unlikely that the county and township will enter into the types of contracts explained previously or that the board of county commissioners will require its clerk to negotiate, on its behalf, a proposed contract between the county and township, the potential conflicts of interest do not involve the primary statutory duties of either position. In addition, since these types of contracts are unlikely to be entered into between the county and township and neither position exercises discretionary authority, the fact that the potential conflicts of interest created by such contracts might involve budgetary or financial matters is an insufficient basis for finding the positions incompatible.

Finally, if the person, as township clerk, were required to countersign an order to pay township moneys to the county, it is reasonable to presume that the person would use his best judgment in discharging this ministerial duty. *See* 1999 Op. Att'y Gen. No. 99-018 at 2-133; *See generally State ex rel. Speeth v. Carney* (syllabus, paragraph ten). Also, since the instances in which the person, as clerk of the board of county commissioners, would be required to negotiate on behalf of the county a contract with the township that employs him as a township clerk are likely to be rare, and the person, as clerk of the board of county commissioners, would not deliberate or vote on the contract, it may be presumed that the person would use his best judgment when negotiating a contract with the township.

However, if the county and township were to enter into a contract that requires this person either to perform duties or responsibilities on behalf of the county or township in accordance with the terms of a contract between the county and township entered into under R.C. 307.15, or to perform duties or responsibilities in accordance with the terms of any other contract between the county and township, the conflicts of interest would not be remote and speculative. *See* 1987 Op. Att'y Gen. No. 87-085 at 2-571. Under such contracts, the person, as township clerk or clerk of the board of county commissioners, would be subject to divided loyalties. As township clerk, he might not perform his duties under the contract in a completely objective manner for fear of reprisals in his position as clerk of the board of county commissioners. Similarly, as clerk of the board of county commissioners, he might not discharge his duties under the contract in a disinterested manner for fear of reprisals in his position as township clerk.

If the county and township enter into a contract that requires this person either to perform duties or responsibilities on behalf of the county or township in accordance with the terms of a contract between the county and township entered into under R.C. 307.15, or to perform duties or responsibilities in accordance with the terms of any other contract between the county and township, the person would not be able to remove himself from the potential conflicts. In either of these situations, therefore, a person serving as township clerk and clerk of the board of county commissioners would be subject to an impermissible conflict of interest. *Id.* Accordingly, the positions of township clerk and clerk of the board of county commissioners are compatible, provided that the person serving in those positions is not required either to perform duties or responsibilities on behalf of the county or township in accordance with the terms of a contract between the county and township entered into under R.C. 307.15, or to perform duties or responsibilities in accordance with the terms of any other contract between the county and township, other than to countersign an order disbursing township moneys that are owed to the county under the contract.

In light of the foregoing, it is my opinion, and you are hereby advised that a person serving as clerk of a board of county commissioners may also serve within the same county as township clerk, provided that he is not required to (1) prepare competing annual tax budgets for the county and township and present those budgets to the county budget commission, (2) perform duties or responsibilities on behalf of the county or township in accordance with the terms of a contract between the county and township entered into under R.C. 307.15, or (3) perform duties or responsibilities in accordance with the terms of any other contract between the county and township, other than to countersign an order disbursing township moneys that are owed to the county under the contract. (1987 Op. Att'y Gen. No. 87-085, approved and followed; 1937 Op. Att'y Gen. No. 164, vol. I, p. 242; 1933 Op. Att'y Gen. No. 161, vol. I, p. 187; 1931 Op. Att'y Gen. No. 3513, vol. II, p. 1098; 1913 Op. Att'y Gen. No. 65, vol. II, p. 1096, questioned.)