

OPINION NO. 78-017**Syllabus:**

A township trustee may, pursuant to R.C. 505.011, serve in the volunteer fire department of another township, even though that other fire department has a contract to provide fire protection to the township for which he is trustee, provided that the trustee receives no compensation from the township for providing such protection. (1960 Op. Att'y Gen. No. 1166, p. 120, overruled.)

To: Stephan M. Gabalac, Summit County Pros. Atty., Akron, Ohio
By: William J. Brown, Attorney General, April 14, 1978

I have before me your request for an opinion which raises the following questions:

1. May a township trustee be a member of another township's volunteer fire department, such department contracting to provide fire protection for the township of which he is trustee?
2. If such person cannot occupy both positions, does the fact that he has been elected township trustee work a forfeiture of his position on the volunteer fire department, or does it require, if such person refuses to resign from the fire department, the institution of proceedings to remove such person from his position as township trustee?

As you indicate in your request, the statutory provision most closely related to your question is found in R.C. 505.011. That section provides as follows:

A member of a board of township trustees may be appointed as a volunteer fireman and in such capacity be considered an employee of the township, or he may be a member of a private fire company which has entered into an agreement to furnish fire protection for the township of which such member is trustee; provided that such member shall not receive compensation for his services as a volunteer fireman. (Emphasis added.)

This statutory provision became effective in 1967 and effectively negated the conclusion reached in 1960 Op. Att'y Gen. No. 1166, p. 120. The syllabus of that opinion reads as follows:

Under Section 505.37, Revised Code, a member of a board of township trustees may not be employed by the township to maintain and operate fire fighting equipment and may not serve on a volunteer fire department which has entered into an agreement with the township to furnish fire protection, as such employment is incompatible with the office of a member of a board of township trustees.

The obvious purpose of R.C. 505.011 is to allow township trustees to serve their communities as volunteer firemen without jeopardizing their trusteeship. The

only caveat is that the trustee may not receive any compensation. Keeping this purpose in mind, there appears to be no reason why a township trustee can not serve in the volunteer fire department of a different township, even if that department is under contract to provide fire protection to the township which the trustee serves. While the statute does not specifically provide for the particular facts about which you inquire, the intent is clear. The only restriction is that the trustee may not receive any compensation for his services.

My answer to your first question renders an answer to your second question unnecessary.

Accordingly, it is my opinion, and you are advised that:

A township trustee may, pursuant to R.C. 505.011, serve in the volunteer fire department of another township, even though that other fire department has a contract to provide fire protection to the township for which he is trustee, provided that the trustee receives no compensation from the township for providing such protection. (1960 Op. Att'y Gen. No. 1166, p. 120, overruled.)