

**OPINION 65-88****Syllabus:**

The offices of township trustee and member of the board of health of a general health district are incompatible.

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**To: Neil M. Laughlin, Licking County Pros. Atty., Newark, Ohio**  
**By: William B. Saxbe, Attorney General, May 18, 1965**

I have your request for my opinion which asks in substance whether the position of township trustee is compatible with the position of a member of a board of health of a general health district.

There are no constitutional or statutory provisions expressly prohibiting the simultaneous holding by one person of the two positions in question. However, on the basis of the common law test of incompatibility as expressed in State ex rel Attorney General v. Gebert, 12 C.C. (N.S.) 274, on page 275, one of my predecessors found the positions incompatible in Opinion No. 2603, Opinions of the Attorney General for 1930. It was held in that opinion that the funds necessary to operate a general health district were derived in part from townships and that one serving in both positions might be influenced by the needs of one at the expense of the others. The same rationale applied in that opinion prevails here.

By virtue of Section 3709.01, Revised Code, a general health district consists of the townships and villages in each county. Pursuant to Section 3709.03, Revised Code, members of the board of health of a general health district are appointed by an ad-

visory council which is made up in part by chairmen of the various boards of township trustees throughout the general health district.

Section 3709.28, Revised Code, in effect, provides that the board of health of a general health district shall estimate current expenses and submit the estimate to the county auditor who in turn submits it to the county budget commission which may reduce the estimate but not increase it. Thereafter, the estimate is returned to the county auditor who apportions the amount among the township and municipal corporations within the general health district.

Pursuant to Section 5705.01, Revised Code, the board of township trustees is the taxing authority of the township and by virtue of Section 5705.03, Revised Code, has the power to levy taxes against the personal and real property located in the county. When the board of township trustees makes a general levy for current expenses it is required by Section 5705.05, Revised Code, to include amounts "\* \* \* necessary for boards \* \* \* of health \* \* \*."

From the foregoing it is apparent that after the county auditor apportions the estimate of current expenses submitted by the board of health, the boards of township trustees of the various townships included in the general health district are required to include that proportion of the estimate allotted to each township in the general levy for the township. The danger inherent in such a situation was succinctly described in Opinion No. 2603, supra, mentioned above. My predecessor said the following in that opinion on page 1719:

"\* \* \* There might be a tendency for said township trustee acting as health board member to make the amount of the request for funds less than they ordinarily should be, so that his township would not have to have apportioned to it as large an amount to levy for health district expenses.

"It is clear from the foregoing, that the interests of the township and the general health district will be conflicting in that the amount of funds made available to the one subdivision will often be dependent in a measure upon the amount made available to the other. It would follow that one serving in both capacities might be influenced of the needs of the other."

This danger prevails in the instant situation and in my opinion is sufficient to make the positions involved here incompatible just as they were found to be incompatible by the former opinion.

Therefore, it is my opinion and you are accordingly advised that the offices of township trustee and member of the board of health of a general health district are incompatible.