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COUNTY ENGINEER MAY NOT PARTICIPATE AS A MEMBER OF A FIRM OF ENGINEERS—ENTIRE TIME AND ATTENTION TO DUTIES OF OFFICE.

*SYLLABUS:*

1. *By virtue of the limitations of Section 7181, General Code, a county engineer may not participate as a member of a firm of engineers, but must devote his entire time and attention to the duties of his office.*
2. *A county engineer may not accept employment from a firm or individuals during his term in office.*

COLUMBUS, OHIO, September 24, 1937.

HON. FORREST D. PFALZGRAF, *Prosecuting Attorney, Woodsfield, Ohio.*

DEAR SIR: I wish to acknowledge the receipt of your letter of recent date in which you request my opinion on the following questions:

- “1. May the County Engineer be a member of a firm of Civil and Municipal Engineers while serving as County Engineer?”
2. May the County Engineer work for firms or individuals on holidays without violating the statutes?”

As a member of a firm of private engineers, it is necessarily implied that the county engineer would actively participate in the practice of such firm in so far as time would permit, and as a constituent partner would share in the profits or losses of the firm. In other words, the county engineer would be engaging in the private practice of engineering for all practical purposes.

The question as to whether or not a county engineer, or prior to the effective date of Section 2782-1, General Code, a county surveyor, may accept private employment either as an individual or as a member of an engineering firm, has arisen in various forms in the past and seems to be perfectly answered by the first sentence of Section 7181, General Code, which reads as follows:

“The county surveyor shall give his entire time and attention to the duties of his office and shall receive an annual salary to be computed as follows: \* \* \*”

The foregoing statutory provision was considered in an opinion of the Attorney General for 1915, Vol. II, page 1785, the fifth branch of the syllabus of which reads as follows:

“County surveyor may accept no public or private employment except that provided for by statute.”

Section 7181, General Code, *supra*, was also under consideration in an opinion of the Attorney General for 1925, Vol. I, page 589. At page 591 it is stated:

“This section provides that the county surveyor shall give his entire time and attention to the duties of his office, and provides a salary as the legislature considers adequate for his entire time and attention. Any additional requirement as to services to be performed could do no more than require his entire time and attention, even though existing duties might be relegated or might require the attention of others.”

An even stronger case for not allowing a county engineer to engage in any engineering work other than the duties prescribed by statute was presented in an opinion rendered by the Attorney General for 1927, Vol. II, page 807. In this opinion the Attorney General held, in a construction of Section 7181, *supra*, that a county surveyor could not perform surveying work for a city even where the charges for such services are paid into the county treasury.

Inasmuch as Section 7181, General Code, and the opinions of the Attorney General construing this statutory provision prohibit beyond any question an incumbent county engineer from engaging in any extra-official engineering practice as an individual, it logically follows that such officer could not go beyond the scope of his official duties as a member of a firm of engineers.

As regards the question as to whether a county engineer may work for firms or individuals on holidays, it seems that the plain intention of the legislature in enacting the first sentence of Section 7181, General Code, was to prevent the county engineer from accepting any other employment, engineering or otherwise. The legislature certainly must have contemplated that the entire time and attention to the duties of his office would necessarily preclude any time for outside activities. No language could be stronger or plainer as indicating the intention of the legislature.

In specific answer to your questions, therefore, I am of the opinion:

1. By virtue of the limitations of Section 7181, General Code, a county engineer may not participate as a member of a firm of engineers, but must devote his entire time and attention to the duties of his office.

2. A county engineer may not accept employment from a firm or individuals during his term in office.

Respectfully,

HERBERT S. DUFFY,

*Attorney General.*

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APPROVAL—LEASE EXECUTED BY THE UNITED THEATERS COMPANY OF CINCINNATI, OHIO, TO THE STATE OF OHIO FOR USE BY THE UNEMPLOYMENT COMPENSATION COMMISSION OF OHIO.

COLUMBUS, OHIO, September 24, 1937.

HON. CARL G. WAHL, *Director, Department of Public Works, Columbus, Ohio.*

DEAR SIR: You have submitted for my examination and approval a certain lease executed by The United Theaters Company of Cincinnati, Ohio, in and by which there are leased and demised to the State of Ohio, acting through you as Director of the Department of Public Works, certain premises for the use of the Unemployment Compensation Commission of Ohio.

By this lease, which is one for a term of one year from the first day of August, 1937, until midnight of July 31, 1938, and which provides for an annual rental of \$600.00, payable in monthly installments of \$50.00 each, there are leased and demised to the State for the use of the Unemployment Compensation Commission of Ohio certain premises on the seventh floor of the Keith Building in the city of Cincinnati, Ohio, and more particularly described as being Room No. 712-14 in said building.

This lease has been properly executed by The United Theaters Company, the lessor, by the hand of its Secretary. I likewise find that this lease and the provisions thereof are in proper form.

Accompanying this lease are contract encumbrance records Nos. 6 and 10. These contract encumbrance records have been properly executed and taken together they cover the full amount of the rentals pro-