

OPINION NO. 89-022**Syllabus:**

1. An individual who holds a position of assistant auditor of state pursuant to R.C. 117.09 and whose duties include acting for or in the place of the auditor of state or the deputy auditor, is prohibited from simultaneously holding the positions of township clerk, city planning commissioner, or member of a citizens advisory committee to a school board.
2. R.C. 124.57 prohibits an individual from simultaneously holding the positions of classified assistant auditor of state and township clerk if the election for township clerk is a partisan election as provided in R.C. 3513.253.
3. R.C. 124.57 prohibits an individual from simultaneously holding the positions of classified assistant auditor of state and city planning commissioner in a charter municipality if, pursuant to charter provisions, the office of city planning commissioner is a partisan political office.

4. An individual is precluded from simultaneously holding the positions of assistant auditor of state and township clerk if that individual's duties as assistant auditor include participating in or supervising the audit of that township.
5. An individual is precluded from simultaneously holding the positions of assistant auditor of state and city planning commissioner if that individual's duties as assistant auditor include participating in or supervising the audit of that municipality.
6. An individual is precluded from simultaneously holding the positions of assistant auditor of state and member of a citizens advisory committee to a school board if that individual's duties as assistant auditor include participating in or supervising the audit of that school district.

To: Thomas E. Ferguson, Auditor of State, Columbus, Ohio
By: Anthony J. Celebrezze, Jr., Attorney General, April 5, 1989

I have before me your request for my opinion regarding the compatibility of the position of assistant auditor of state with the positions of city planning commissioner, township clerk, and member of the citizens advisory committee of a board of education. Your letter lists past instances in which assistant auditors of various classifications have sought to serve in these positions. You also have provided, for my consideration, the job specifications of assistant auditor positions and your departmental policy on outside employment. Specifically, you ask:

1. What are the specific requirements that an individual must meet to hold these offices: city planning commissioner, citizens advisory committee member, township clerk, and township clerk/treasurer?
2. What requirements must be met by a public employee, such as an Assistant Auditor, before he or she may hold a public office?
3. Is the position of Assistant Auditor compatible with any of the public offices [in the first question]?

The answers to your first two questions are factors which must be considered in answering the third. Therefore, consistent with discussion between members of our staffs, I will not treat the requirements of public employment and of the specific positions you have listed as separate questions but instead will discuss those requirements as they occur within the context of the compatibility analysis. I note additionally that the terms "township clerk" and "township clerk/treasurer" refer to the same public office.¹ In answering your questions, I will use the term "township clerk", which is the current statutory title for that office. See R.C. Chapter 507.

In determining whether two positions are compatible, I have consistently used the analysis formulated by my predecessor as a method of reviewing the statutory and common law elements of compatibility. 1979 Op. Att'y Gen. No. 79-111 at 2-367 asks seven questions:

1. Is either of the positions a classified employment within the terms of R.C. 124.57?

¹ The office of township treasurer was abolished in 1924 and, pursuant to G.C. 3316-1, the treasurer's duties were transferred to the township clerk. 1923 Ohio Laws 32 (H.B. 43 eff. Jan. 1, 1924). See also 1932 Op. Att'y Gen. No. 4094, Vol. I, p. 271 (syllabus, paragraph three). The term township clerk/treasurer may have developed in some townships as a result of this combination of functions, but it is not an office distinct from the township clerk.

2. Do the empowering statutes of either position limit the outside employment permissible?
3. Is one office 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 also Chronister v. Trumbull County Prosecuting Attorney, 39 Ohio Misc. 2d 10, 531 N.E.2d 785 (C.P. Trumbull County 1988); *Esler v. Summit County*, 39 Ohio Misc. 2d 8, 530 N.E.2d 973 (C.P. Summit County 1985). In order for two positions to be found compatible, all seven questions must be answered in favor of compatibility.²

I turn now to the first question of the compatibility analysis, which asks whether either of the positions is a classified employment within the terms of R.C. 124.57. R.C. 124.57 states:

No officer or employee in the classified service of the state, the several counties, cities, and city school districts thereof, and civil service townships, shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political party or for any candidate for public office...nor shall any officer or employee in the classified service...be an officer in any political organization or take part in politics other than to vote as he pleases and to express freely his political opinions.

This section has been construed to prohibit participation in partisan political activities only. *See Gray v. Toledo*, 323 F. Supp. 1281, 1285 (N.D. Ohio 1971) (governmental restriction of its employees' political activities "must be directly related to the goal of prohibiting partisan political activity"); *Heidtman v. Shaker Heights*, 163 Ohio St. 109, 126 N.E.2d 138 (1955) (syllabus, paragraph two) (the word "politics," as used in R.C. 124.57, "must be defined as politics in its narrower partisan sense"). R.C. 124.57 thus prohibits a classified employee from holding a partisan elective office or engaging in partisan political activities, but does not apply to non-partisan elective offices. *See Esler v. Summit County*, 39 Ohio Misc. 2d 8, 530 N.E.2d 973 (C.P. Summit County 1985); 1987 Op. Att'y Gen. No. 87-013 at 2-81. *See also* 1 Ohio Admin. Code 123:1-46-02 (listing permissible and prohibited activities).

Assistant auditors of state are appointed pursuant to R.C. 117.09, which provides that "[t]he auditor of state shall appoint such state examiners as are necessary, who shall be known as assistant auditors of state, and such additional employees as he requires." Assistant auditors are members of the civil service as

² I note that my consideration of the question of compatibility does not constitute an opinion on the applicability of the provisions of R.C. Chapter 102, R.C. 2921.42, or R.C. 2921.43 governing ethics, conflict of interest or financial disclosure with regard to public employees. Pursuant to R.C. 102.08, the authority to render advisory opinions on these sections of the Revised Code is vested in the Ohio Ethics Commission. *See, e.g.*, 1987 Op. Att'y Gen. No. 87-025 (syllabus, paragraph three) ("[b]ecause R.C. 102.08 grants the Ohio Ethics Commission authority to render advisory opinions interpreting R.C. 2921.42, the Attorney General will not also render opinions construing R.C. 2921.42").

defined in R.C. 124.01. *See* 1950 Op. Att'y Gen. No. 1344, p. 1. A member of your staff has indicated that the positions of assistant auditor-1 through assistant auditor-4 are classified and that the positions of assistant auditor-5 and above are unclassified.³ R.C. 124.57 has no application to assistant auditors in the unclassified service,⁴ but it does prohibit classified assistant auditors from holding partisan elective offices. I must therefore determine the nature of the positions of city planning commissioner, township clerk, and citizens advisory committee member in this regard.

City planning commission members are appointed pursuant to one of four provisions in R.C. 713.01 or, in the case of a charter municipal corporation, pursuant to the terms of the municipal charter. All of the appointment provisions of R.C. 713.01 pertaining to non-charter municipalities provide for the appointment of citizens of the municipality to the commission, in addition to the appointment of specified city officials. Depending on the form of city government, R.C. 713.01 provides that these citizen members are appointed by the mayor, the legislative commission, or the city manager. Citizens appointed to a city planning commission of a non-charter municipality are thus members of the unclassified civil service. *See* R.C. 124.11(A)(3) (unclassified service includes members of all commissions appointed by the mayor or chief appointing authority of a city). I conclude, therefore, that R.C. 124.57 does not prevent a classified assistant auditor of state from serving concurrently on a city planning commission of a non-charter municipality. R.C. 713.01 provides, however, that charter municipalities may establish their own requirements and procedures for filling positions on a planning commission. Since gaining a seat on the planning commission of a charter municipality may require partisan political activity, the determination of whether a classified assistant auditor may be a member of such a commission must be made on a case by case basis after review of the relevant charter and ordinance provisions.

A township clerk is an elected public officer and is in the unclassified civil service. R.C. 507.01 (election of township clerk); R.C. 124.11(A)(1) (exemption of elected officials from classified civil service). Candidates for township clerk are nominated by petition, rather than in a primary, unless the township electors petition for a primary election. R.C. 3513.01; R.C. 3513.253. Candidates nominated by petition are elected from a nonpartisan ballot. R.C. 3505.04. Thus, R.C. 124.57 would not preclude a classified assistant auditor from serving as a township clerk, unless, pursuant to R.C. 3513.253, the election for clerk is partisan in nature. *See* 1983 Op. Att'y Gen. No. 83-033 (syllabus).

Your letter indicates that the members of the citizens advisory committee are appointed by the particular school board involved. Thus the position is not a partisan elective office and R.C. 124.57 does not apply.

The second question of the compatibility analysis asks whether the empowering statutes of either position limit the outside employment permissible. R.C. 117.09, which authorizes the appointment of assistant auditors of state, is silent as to outside employment. R.C. 713.01 does not limit the scope of outside employment permitted to city planning commissioners nor do I find any applicable limitations elsewhere in R.C. Chapter 713 or in R.C. 733.68, which governs

³ I assume, for purposes of this opinion, that these latter positions have been correctly exempted from the classified service. *See, e.g.,* R.C. 124.11(A)(9) (assistants of elective officers who are authorized to act for or hold a fiduciary relation to their principal are unclassified). *See also State ex rel. Charlton v. Corrigan*, 36 Ohio St. 3d 68, 521 N.E.2d 804 (1988) (examining the nature of the fiduciary relationship exception to classified civil service).

⁴ Clearly the position of assistant auditor is not itself a partisan elective office. Thus even if the second position under consideration were in the classified civil service and subject to R.C. 124.57, it would have no effect as to an assistant auditor.

municipal officers generally.⁵ Similarly I find no provisions in R.C. Chapter 507, governing the township clerk, or in R.C. 503.22 through R.C. 503.28, governing township officers generally, which would limit the outside employment of a township clerk as an assistant auditor. A citizens advisory committee to a public school board is not governed by any statutes, but rather is created and governed by the school board. Limitations on outside employment of committee members, if any, would be set by the school board's resolutions and not by statute. Accordingly, the second question may be answered in the negative for all the positions involved.

The third and fourth questions constitute the common law test of incompatibility, as articulated by the court in *State ex rel. Attorney General v. Gebert*, 12 Ohio C.C. (n.s.) 274, 276 (Cir. Ct. Franklin County 1909). The third question asks whether one office is subordinate to, or in any way a check upon the other. In compatibility analysis, the authority to audit has long been recognized as a check upon the entity to be audited. In *State ex rel. Louthan v. Taylor*, 12 Ohio St. 130 (1861) the court adopted the view of counsel for relators on compatibility, which stated:

In conclusion, permit us to call attention to the utter inconsistency of permitting the offices...to be held by the same individual. [By] Such a union of offices...he is made *an inspector of his own books and accounts*. To permit a man thus to be "judge in his own cause," would be to convert the very checks and safeguards which the law has provided....

Id. at 135 (citation omitted). *Accord Mason v. State ex rel. McCoy*, 58 Ohio St. 30, 54, 50 N.E. 6, 9 (1898) ("[a] person may not hold incompatible offices, as an officer who presents his personal account for audit and officer who passes on it..."). *See also* 1920 Op. Att'y Gen. No. 1778, vol. II, p. 1280 (office of county auditor is incompatible with all offices or employments which receive or pay out county funds); 1920 Op. Att'y Gen. No. 1249, vol. I, p. 571 at 572 ("duties of the city auditor constitute checks upon the powers of all the administrative officers"). The check and safeguard function of the audit is also clearly reflected in the statutes setting forth the duties of the auditor of state. R.C. 117.10 states that "[t]he auditor of state shall audit all public offices as provided in this chapter."⁶ *See also* R.C. 117.09 ("[b]y virtue of his office, the auditor of state shall be the chief inspector and supervisor of public offices..."). R.C. 117.11(A) sets out the requirements of an audit as follows:

In the audit, inquiry shall be made into the methods, accuracy and legality of the accounts, financial reports, records, files, and reports of the office, whether the laws, ordinances, and orders pertaining to the office have been observed, and whether the requirements and rules of the auditor of state have been complied with.

The resulting audit reports can lead to civil and/or criminal action against public officials of the audited office. *See* 117.28 (action for recovery of public money or property); R.C. 117.29 (criminal proceedings against a public official).

From an examination of the above statutes, it is evident that the office of auditor of state acts as a check upon all public officials⁷ whose duties include

⁵ The citizen members of a city planning commission are municipal officers, by virtue of their appointment to the commission. 1962 Op. Att'y Gen. No. 2763, p. 24 at 28.

⁶ Pursuant to R.C. 117.01(D) a public office is "any state agency, public institution, political subdivision, or other organized body, office or agency, institution, or entity established by the laws of this state for the exercise of any function of government."

⁷ R.C. 117.01(E) defines "public official" as "any officer, employee, or duly authorized representative or agent of a public office."

matters subject to examination in the course of an audit and that the functions of the auditor and such officials are inherently inconsistent. The auditor of state is therefore prohibited from concurrently serving as a public official of any entity subject to audit. The deputy auditor of state is subject to the same limitations as the auditor of state, because the deputy may be authorized to perform all of the duties of the auditor. R.C. 117.06 ("[d]uring the absence or disability of the auditor of state, or when so directed by him, the deputy auditor of state may perform all the duties of auditor of state"). See also R.C. 3.06(A) ("[a] deputy, when duly qualified, may perform any duties of his principal"). According to the classification specifications you have provided, the duties of assistant auditors are more limited, with the exception of the position of assistant auditor regional administrator. A regional administrator assumes the duties of the deputy auditor in his or her absence. Therefore, like the deputy auditor, a regional administrator may not hold any office that the auditor of state may not hold. All other assistant auditors, however, perform only limited duties on behalf of the auditor. Thus, the fact that a lower ranking assistant auditor is employed by the auditor of state does not result per se in that employment being a check upon every public official subject to audit. Common law incompatibility will result only if the specific limited duties render that particular assistant auditor's position a check upon the additional position. See 1986 Op. Att'y Gen. No. 86-035 at 2-184 n.2 (analyzing whether duties of an assistant prosecuting attorney are a check upon assistant city law director); 1985 Op. Att'y Gen. No. 85-080 at 2-318 (analyzing whether duties of an employee of the Department of Transportation are a check upon a board of township trustees).

According to the classification specifications which you have provided, all assistant auditors below the rank of regional administrator perform functions directly related to audits. These functions range from the audit of specific assigned accounts (assistant auditor-1) to reviewing and analyzing completed audit reports (assistant auditor supervisor 2). The performance of an audit, as described in R.C. 117.11(A) cannot be described as a mere ministerial function. Even at the lowest level assistant auditor position, an individual performing an audit is required to utilize some degree of professional expertise and judgment. Additionally, I note that all assistant auditors possess subpoena powers which may be used in the performance of their duties to elicit needed information. R.C. 117.18(A).

Upon review of the other positions, I find that both a township clerk and a city planning commissioner perform functions which must be examined in the course of an audit. A township clerk is responsible for keeping the accounts and financial records of the township and also for handling public funds. See, e.g., R.C. 507.04 (township clerk shall keep an accurate record of all the accounts and transactions of the township board of trustees); R.C. 507.07 (township clerk shall make an annual statement of receipts and expenditures of the township); R.C. 507.11(A) (if authorized by board of township trustees, township clerk may incur financial obligations on behalf of the township); R.C. 507.11(B) (township clerk must countersign all orders for payment of township monies); R.C. 5705.03 (township clerk, as fiscal officer for township, receives the proceeds of any township tax levy from the county auditor and must deposit these proceeds in township treasury). A city planning commission receives and expends public funds. See, e.g., R.C. 713.02 (planning commission may accept, receive, and expend federal, state, municipal or other subdivision funds and grants); R.C. 713.05 (planning commission may appoint and employ professionals, clerks, subordinates as necessary; municipality shall provide for necessary expenses and accommodations).

Given the above, if an assistant auditor who is a township clerk or city planning commissioner is required to participate in or supervise the audit of his or her own township or municipality, clearly the positions are incompatible. See 1927 Op. Att'y Gen. No. 1331, vol. III, p. 2412 (syllabus, paragraph one) ("village clerk, being the auditing official of the municipality, is required to keep a check upon the expenditures of all departments, including the village planning commission, and his position is, therefore, incompatible with that of a citizen member of such planning commission"). However, whether the job duties of a particular assistant auditor require any involvement with the particular township or municipality where he or she holds the additional position depends upon the organizational structure of the office

of the auditor of state.⁸ Therefore, whether the position of an assistant auditor below the rank of regional administrator operates as a check upon the public office of township clerk or city planning commissioner is a question of fact to be determined in each instance.

From the information provided, it does not appear that a member of a citizens advisory committee to a school board performs any functions which must be examined in the course of an audit. The function of the committee is purely advisory. As I have already noted, the members are not elected or appointed by law and their functions are not assigned by law. You have indicated that the committee members serve without compensation, but that they are reimbursed by the school board for their expenses. Members of the committee have no authority to collect or expend public funds or to enact policies or resolutions involving public funds. Although the committee members may advise the school board on matters related to public funds, it is the school board which is responsible for any action and which is subject to audit. Likewise, it is the school board which determines the propriety of expending public funds to reimburse any expenses submitted by a committee member. Thus, an audit of the school district is a direct check upon the members of the school board, but not upon the position of advisory committee member.⁹ Therefore, even if an assistant auditor's duties include participation in or supervision of an audit of the school district involved, the common law subordination analysis does not make the position of advisory committee member incompatible with that of assistant auditor.

The fourth question set out in Op. No. 79-111 asks whether it is physically possible for one person to discharge the duties of both positions. This question is the second prong of the common law test found in *Gebert*. Physical possibility is a question of fact which can best be resolved by the parties involved, as they are aware of the time demands that each position will make on the person involved. See Op. No. 79-111 at 2-373. It is not appropriate for me to use the opinion-rendering function to make findings of fact or determinations as to the rights of particular individuals. 1987 Op. Att'y Gen. No. 87-082.¹⁰

The common law analysis also requires an examination of whether there is a conflict of interest between the two positions, which is the fifth question set out in Op. No. 79-111. A conflict of interest occurs when an individual's "responsibilities in one position are such as to influence the performance of his duties in the other

⁸ I note, for example, that the materials you provided refer to audit districts based on geographic area or classification of audits by governmental type. If these districts are the basis for assignment, it is possible that a particular assistant auditor would not have any auditing responsibilities for a particular township or municipality.

⁹ I note that neither assistant auditor nor member of a citizens advisory committee to a school board is a public office. See *State ex rel. Landis v. Board of Commissioners*, 95 Ohio St. 157, 159-160, 115 N.E. 919, 919 (1917) ("[i]f official duties are prescribed by statute, and their performance involves the exercise of continuing, independent, political or governmental functions, the position is a public office and not an employment") (emphasis added). In Op. No. 79-111 at 2-371, I stated that the common law test of compatibility is applicable to the simultaneous holding of two public offices, or of a public office and a public employment. I did not decide whether the rule would be applicable if neither of the positions were a public office. But since I find there is no incompatibility in the common law sense between the position of assistant auditor and membership on a citizen's advisory committee, it is not necessary to decide the question now.

¹⁰ At the same time, I direct your attention to 1986 Op. Att'y Gen. No. 86-057 at 2-317, wherein I noted that a township clerk has considerable discretion and flexibility regarding the time and place of the performance of certain of his or her duties and "may well be able to hold a full-time position other than that of the township clerk...."

position, thereby subjecting him to influences which may prevent his decisions from being completely objective."¹¹ 1985 Op. Att'y Gen. No. 85-100 at 2-427 (quoting 1980 C. v. Att'y Gen. No. 80-035). Additionally, the conflict of interest analysis is applicable to all concurrently held positions of a public officer or employee, whether public or private. See generally 1987 Op. Att'y Gen. No. 87-025; 1983 Op. Att'y Gen. No. 83-035 at 2-135.

Prior opinions have held that when a public position requires an individual to conduct an objective investigation or review of another entity, a conflict arises when the individual holds a second position which creates a loyalty to that entity or a predisposition toward the outcome of the review or investigation. This occurs even if the second position does not involve direct authority over or responsibility for the matter being reviewed or investigated. See, e.g., 1985 Op. Att'y Gen. No. 85-052 at 2-194 (participation in development of regulations may conflict with duty to objectively review facts which might constitute a violation of the regulation); 1983 Op. Att'y Gen. No. 83-035 at 2-136 (county treasurer with duty to objectively review and adjust county appropriations is subject to conflict of interest if he serves as director of county agricultural society which receives county appropriations); 1983 Op. Att'y Gen. No. 83-010 (township administrator, although having no ultimate responsibility for actions of the board of trustees, is substantially involved in budget preparation and recommendations to trustees, resulting in a conflict of interest with position on general health district board which receives township funds); 1981 Op. Att'y Gen. No. 81-009 (special deputy sheriff develops special sense of loyalty to sheriff and fellow officers and also performs services for which the sheriff claims payment from the county, resulting in interference with objective performance of duty as county commissioner to supervise the sheriff's department and review claims for payment); 1981 Op. Att'y Gen. No. 81-004 (city auditor may not serve as volunteer firefighter pursuant to R.C. 737.08 because loyalty to fire department creates conflict of interest with duty to objectively examine accounts of the fire department).

Review of the positions of township clerk, city planning commissioner, and member of a citizens advisory committee to a school board shows that all three positions are subject to a conflict of interest if the individuals in those positions are required to participate in or supervise an audit of the subdivision in which they serve. With regard to the township clerk and city planning commissioner, the same facts which created subordination for purposes of the third question result in a conflict of interest for purposes of this fourth question. The township clerk and city planning commissioner have duties which are directly subject to audit, and, therefore, cannot hold a position which requires them to objectively judge their own performance. A member of the citizens advisory committee only advises the school board. Nonetheless, this participation in the formulation of school district policy will result in a loyalty to the board and a predisposition regarding actions taken by the board as a result of or in spite of the committee's recommendations. In addition, the assistant auditor would be required to review the school board's payment of his or her own reimbursement requests as a committee member. Although this does not constitute a check on the committee for purposes of the common law compatibility analysis of question three, the conflict of interest is abundantly clear. I also note that committee members could be subject to subpoena in the course of an audit of the school district. Membership on the committee could detract from the assistant auditor's ability to objectively determine the need for such action. If the duties of an assistant auditor require involvement in an audit of the township, municipality, or school district where he or she serves in one of the above positions, the potential for conflict is immediate, not remote and speculative. Since it also involves budgetary controls, it is of particular concern. See 1985 Op. Att'y Gen. No. 85-006 at 2-19.

¹¹ The distinction between common law conflict of interest and common law incompatibility often becomes blurred because of the interwoven nature of the concepts, see Op. No. 79-111 at 2-371, and because both require a comparison of the duties of the positions involved. Common law incompatibility, as reflected in questions three and four, results when two public positions have inherently inconsistent duties or functions. See *State ex rel. Hover v. Wolven*, 175 Ohio St. 114, 191 N.E.2d 723 (1963); 1985 Op. Att'y Gen. No. 85-006.

Therefore, I find that an impermissible conflict of interest arises if an assistant auditor is required to participate in or supervise the audit of a township in which he or she serves as township clerk, a municipality in which he or she serves on the city planning commission, or a school district in which he or she serves on a citizens advisory committee to the school board. As I noted in my discussion of question three, however, whether the duties of a particular assistant auditor require him or her to be involved with the township, municipality, or school district which creates the conflict depends upon the organizational structure of the office of the auditor of state and is ultimately a question of fact.

Questions number six and seven are matters of local concern which must be determined on a case by case basis. Op. No. 79-111 at 2-368. In the case of a township clerk and city planning commissioner, there may be local charter provisions or ordinances which limit these officers from holding certain other positions or employment. Similarly, a school district may have established regulations governing advisory committee members. Although obviously none of the positions you have specified are part of the federal government, if any of them receive, administer, or are in some way accountable for federal funds, there may be applicable federal regulations.

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

1. An individual who holds a position of assistant auditor of state pursuant to R.C. 117.09 and whose duties include acting for or in the place of the auditor of state or the deputy auditor, is prohibited from simultaneously holding the positions of township clerk, city planning commissioner, or member of a citizens advisory committee to a school board.
2. R.C. 124.57 prohibits an individual from simultaneously holding the positions of classified assistant auditor of state and township clerk if the election for township clerk is a partisan election as provided in R.C. 3513.253.
3. R.C. 124.57 prohibits an individual from simultaneously holding the positions of classified assistant auditor of state and city planning commissioner in a charter municipality if, pursuant to charter provisions, the office of city planning commissioner is a partisan political office.
4. An individual is precluded from simultaneously holding the positions of assistant auditor of state and township clerk if that individual's duties as assistant auditor include participating in or supervising the audit of that township.
5. An individual is precluded from simultaneously holding the positions of assistant auditor of state and city planning commissioner if that individual's duties as assistant auditor include participating in or supervising the audit of that municipality.
6. An individual is precluded from simultaneously holding the positions of assistant auditor of state and member of a citizens advisory committee to a school board if that individual's duties as assistant auditor include participating in or supervising the audit of that school district.