

**OPINION NO. 1058****Syllabus:**

The positions of inspector for the board of health of a general health district and member of the board of health of a second general health district where there is no union of the two general health districts under Chapter 3709, Revised Code, are compatible if it is physically possible for one person to discharge the duties of both.

-----

**To: Ralph A. Hill, Clermont County Pros. Atty., Batavia, Ohio**  
**By: William B. Saxbe, Attorney General, May 19, 1964**

I have before me your request for my opinion, which reads as follows:

"An individual lives in County A. He is employed by the Board of Health of the General Health District as an inspector in County B.

"Your opinion is respectfully requested as to whether the position of the individual as an employee of County B would be incom-

patible with his membership as a member of the Board of Health of the General Health District of County A.

"The two health districts are not connected in any way through funds for operation, common supervision or other matters except that they would be under the jurisdiction of the State Board of Health."

In Ohio, there are no general constitutional or statutory provisions relating to incompatibility of public offices and I find no express prohibition against an individual holding the positions in question. Therefore, the common law test of compatibility must be applied to the instant situation. A good statement of this test is found in State ex rel. v. Gebert, 12 C.C. (N.S.), 274:

"Offices are considered incompatible when one is subordinate to, or in any way a check upon the other; or when it is physically impossible for one person to discharge the duties of both."

Although there are certain circumstances in which general health districts might be connected, I assume from your letter of request that there is no such joint section in this instance. Thus, the positions indicated will in no way be subordinate to or a check upon each other. The only question remaining to be answered, then, is whether it is physically possible for one person to discharge the duties of both.

This is a question of fact which can best be answered on the local level. If it is found that it is physically impossible for one person to hold the two jobs in question, the positions are incompatible. Otherwise, the positions are compatible.

Accordingly, it is my opinion and you are hereby advised that the positions of inspector for the board of health of a general health district and member of the board of health of a second general health district where there is no union of the two general health districts under Chapter 3709, Revised Code, are compatible if it is physically possible for one person to discharge the duties of both.