

Emailed on 9-11-2012

Clark County Clerk,

Please forward this email to the **Clark County Board** and the **Clark County State's Attorney** as I do not have their email addresses.

It has recently come to my attention that the Clark County Board has appointed Jerry Lowery, a Clark County Board member, as trustee of the East Central Illinois Mass Transit District.

This is a statutory conflict.

The Illinois Mass Transit District Act, 70 ILCS 3610/4, specifically addresses this issue in the second paragraph of Section 4 of the Act.

➔ **"Except in a Metro East Mass Transit District, no Trustee of any District may be an elected official of the municipality or municipalities or county or counties creating the District."**

Furthermore, the Illinois Counties Statute, (50 ILCS 105/1) (from Ch. 102, par. 1), states:

➔ { **"Sec. 1. County board. No member of a county board, during the term of office for which he or she is elected, may be appointed to, accept, or hold any office other than (i) chairman of the county board or member of the regional planning commission by appointment or election of the board of which he or she is a member, (ii) alderman of a city or member of the board of trustees of a village or incorporated town if the city, village, or incorporated town has fewer than 1,000 inhabitants and is located in a county having fewer than 50,000 inhabitants, or (iii) trustee of a forest preserve district created under Section 18.5 of the Conservation District Act, unless he or she first resigns from the office of county board member or unless the holding of another office is authorized by law. Any such prohibited appointment or election is void. This Section shall not preclude a member of the county board from being selected or from serving as a member of a County Extension Board as provided in Section 7 of the County Cooperative Extension Law, as a member of an Emergency Telephone System Board as provided in Section 15.4 of the Emergency Telephone System Act, or as appointed members of the board of review as provided in Section 6-30 of the Property Tax Code. Nothing in this Act shall be construed to prohibit an elected county official from holding elected office in another unit of local government so long as there is no contractual relationship between the county and the other unit of local government. This amendatory Act of 1995 is declarative of existing law and is not a new enactment. (Source: P.A. 94-617, eff. 8-18-05.)"**

It has already been established by the First District Appellant Court, the Third District Appellant Court, and the Illinois Supreme Court that the taking of an office not compatible with one previously held automatically removes them from the previous office. They came to the conclusions that by accepting the conflicting position, the defendant, ipso facto, resigned his previous position.

Clark County Clerk:

I believe it to be your duty to inform the Clark County Board that they shall immediately appoint a new trustee to the Mass Transit District.

Clark County State's Attorney:

As this is a statutory conflict, no other potential conflict(s) need proven. I believe it to be your duty to immediately take action to remove him from his previously held office as County Board member and to inform the Clark County Board they shall immediately appoint a new trustee to the Mass Transit District.

Clark County Board:

I believe it to be your duty to immediately appoint a new trustee to the Mass Transit District.

If there is more than one county board member appointed as a trustee for the Mass Transit District, this would also apply to them.

I will be happy to discuss this with you, either over the phone or in person.

Thanks for your consideration,
John Kraft