



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

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I - 18-009

OFFICERS:

Qualifications of Airport Authority
Commissioners

The Honorable Jacqueline M. Lacy
State's Attorney, Vermilion County
Rita B. Garman Vermilion County Courthouse
7 North Vermilion Street, Suite 201
Danville, Illinois 61832

Dear Ms. Lacy:

I have your letter inquiring whether, under the Airport Authorities Act (the Act) (70 ILCS 5/0.01 *et seq.* (West 2016)), an airport authority commissioner may serve simultaneously as an alderman, an executive vice president of instruction at a community college, a village planning commissioner, or a conservation district trustee. You have also inquired whether airport authority commissioners must reside within the corporate limits of the airport authority in which they hold office. For the reasons discussed below, an individual may not be appointed to serve as an airport authority commissioner if he or she is an alderman, an executive vice president of instruction at a community college, a village planning commissioner, or a conservation district trustee. Further, in order to meet the qualifications of an airport authority commissioner, an individual must reside within the corporate limits of the airport authority in which he or she holds or intends to hold office.

BACKGROUND

The Act authorizes the creation of airport authorities in contiguous areas of the State that meet certain population requirements and other specified statutory criteria. An airport authority is a body politic and corporate (70 ILCS 5/8 (West 2016)) that is governed by a board of commissioners (70 ILCS 5/3 (West 2016)), which exercises all of the corporate powers of the

authority. The number of commissioners appointed to each airport authority board is dependent upon the number of municipalities within the authority and the populations thereof. 70 ILCS 5/3.1 (West 2016). Commissioners serve five-year terms of office. 70 ILCS 5/3.4 (West 2016).

Based on the information you have provided and upon other publicly available information, it appears that the Vermilion County Airport Authority Board is comprised of five commissioners. Vermilion Regional Airport Website, *available at* <https://vrairport.com/staff/>. Four of the Vermilion County Airport Authority commissioners hold other public positions within Vermilion County, including: Danville City Alderman, Executive Vice President of Instruction at Danville Area Community College, Village of Catlin Planning Commissioner, and Vermilion County Conservation Trustee. Additionally, two of the Vermilion County Airport Authority commissioners reside outside of the authority's corporate limits.

ANALYSIS

Airport Authority Commissioners Simultaneously Holding Other Public Positions

Turning to your first issue regarding whether airport authority commissioners may serve simultaneously in other public positions, section 5 of the Act (70 ILCS 5/5 (West 2016)) addresses the qualifications for the office of airport authority commissioner and provides:

No person shall be appointed to the Board of Commissioners of any Airport Authority who has any financial interest in the establishment or continued existence thereof or who is a member of the governing body or an officer or employee of a municipality, a county, or any other unit of local government, or an elected official of State or federal government, except when the authority is wholly located within a single county with a population of less than 40,000, an individual employed by a local school district may serve as a commissioner.

Should it appear to the Department of Transportation that any member of the Board of Commissioners of an airport authority may be disqualified, * * * it shall notify the Board of Commissioners of that fact in writing and it shall then be the duty of the Board of Commissioners to require such board member to show cause why he should not be removed from office. Any such person shall be given a hearing by the Board of Commissioners and, after such hearing, if the Board of Commissioners finds such a charge should be sustained, it shall remove the person so charged from office, and a vacancy shall thereupon exist for the unexpired term of such office. (Emphasis added.)

The primary purpose of statutory construction is to give effect to the intent of the General Assembly; the best indicator of which is the language of the statute, given its plain and ordinary meaning. *Blum v. Koster*, 235 Ill. 2d 21, 29 (2009). The plain and unambiguous language of section 5 of the Act prohibits an individual from being appointed as an airport authority commissioner if he or she is a member of the governing body or an officer or an employee of a municipality, county, or any other unit of local government.¹ The issue, therefore, is whether the other public positions currently held by the Vermilion County Airport Authority commissioners fall within any of the indicated categories.

Section 1 of the Act (70 ILCS 5/1 (West 2016)) defines a municipality as "any city, village or incorporated town of the State of Illinois." Danville is a city of the State of Illinois (Illinois Blue Book 456 (2017-2018)) and its governing body is its mayor and aldermen, who serve as the city's corporate authorities (65 ILCS 5/1-1-2 (West 2016)). Consequently, under section 5 of the Act, one person may not serve simultaneously as an alderman of the City of Danville and as a Vermilion County Airport Authority Commissioner.

Similarly, Catlin is a village of the State of Illinois (Illinois Blue Book 454 (2017-2018)). Section 11-12-4 of the Illinois Municipal Code (65 ILCS 5/11-12-4 (West 2016)) authorizes municipalities to create municipal plan commissions. The members of a plan commission are appointed by the mayor or president, subject to confirmation by the municipality's corporate authorities (65 ILCS 5/11-12-4 (West 2016)) and carry out specific statutory duties related to the development of a comprehensive plan for present and future development of the municipality and the contiguous area within 1½ of its corporate limits, designate land suitable for annexation, and recommend zoning classifications. 65 ILCS 5/11-12-5 (West 2016). Village plan commission members are public officers. 1972 Ill. Att'y Gen. Op. 45, 47; *see generally* Ill. Att'y Gen. Inf. Op. No. I-06-041, issued November 9, 2006 (treating township plan commissioners, who have virtually identical duties to village plan commissioners, as public officers). Accordingly, under section 5, one person may not serve simultaneously as a Village of Catlin Planning Commission member and as a Vermilion County Airport Authority Commissioner.

¹Section 5 of the Act was originally enacted in 1945 (*see* 1945 Ill. Laws 290, 297). As originally enacted, section 5 of the Act provided that "[n]o person shall be appointed to the Board of Commissioners of any Airport Authority * * * who is a member of the governing body or an officer or employee of a municipality, of the state or federal governments, or of any other public agency." 1945 Ill. Laws at 297. In opinion No. UP-462, issued August 30, 1961, Attorney General Clark construed this language and concluded that a Special Assistant Attorney General is not an employee of the State under section 5 of the Act (then codified at Ill. Rev. Stat. 1959, ch. 15 1/2, par. 68.5) and thus is not precluded from serving as a member of the Southern Illinois Airport Authority. Section 5 of the Act was subsequently amended to remove employees of the State or Federal governments or other public agencies from its prohibition. *See* Public Act 89-174, effective July 19, 1995.

With regard to community college districts, section 5 states that "[n]o person shall be appointed to the Board of Commissioners of any Airport Authority * * * who is * * * an officer or employee of a * * * unit of local government[.]" While the Act does not define the phrase "unit of local government," section 1.28 of the Statute on Statutes (5 ILCS 70/1.28 (West 2016)) indicates that the phrase has the meaning ascribed to it in article VII, section 1, of the Illinois Constitution of 1970:

"Units of local government" means counties, municipalities, townships, special districts, and units, designated as units of local government by law, which exercise limited governmental powers or powers in respect to limited governmental subjects, but does not include school districts.

Applying the criteria delineated by the appellate court in *Chicago Transit Authority v. Danaher*, 40 Ill. App. 3d 913 (1976), this office has previously concluded that community college districts are special districts under the Illinois Constitution of 1970. Ill. Att'y Gen. Op. No. 05-009, issued October 5, 2005, at 2-4. As such, community college districts would be considered a unit of local government. Although we have not been provided with any information concerning the powers and duties of the Executive Vice President of Instruction at the Danville Area Community College, we have reviewed the Public Community College Act (110 ILCS 805/1-1 *et seq.* (West 2016)). That Act contains no reference to the position of Executive Vice President of Instruction. Therefore, we have assumed for purposes of your inquiry that the position is one of employment with the community college district. Regardless of whether the position is properly characterized as an office or an employment position, however, section 5 of the Act prohibits an officer or employee of a unit of local government from serving as an airport authority commissioner. Therefore, one person may not serve simultaneously as the executive vice president of instruction at Danville Area Community College and as a Vermilion County Airport Authority Commissioner.

Similarly, conservation districts are regarded as special districts. Ill. Att'y Gen. Inf. Op. No. I-97-021, issued August 25, 1997, at 2. Under the Conservation District Act (70 ILCS 410/1 *et seq.* (West 2016)), the affairs of a conservation district are managed by a board consisting of five trustees. 70 ILCS 410/5 (West 2016). Thus, a conservation district trustee is a member of the governing body of a unit of local government under section 5 of the Act. Consequently, one person may not serve simultaneously as a Vermilion County Conservation District Trustee and as a Vermilion County Airport Authority Commissioner.²

²This construction of the language of the Act is also consistent with subsection 5(c) of the Conservation District Act (70 ILCS 410/5(c) (West 2016)), which provides that conservation district trustees "shall be qualified voters of the district *who do not hold any other public office[.]*" (Emphasis added.)

Because a city alderman, village planning commissioner, employee of a community college district, and conservation district trustee all fall within the prohibition of section 5 of the Act, an individual holding any of those positions may not be appointed as a commissioner of an airport authority.

Residency Requirement

You have also inquired regarding the residency requirements applicable to airport authority commissioners. Section 3.4 of the Act (70 ILCS 5/3.4 (West 2016)) sets out the qualifications for a commissioner and provides, in pertinent part:

Commissioners' terms and qualification. * * * Each commissioner shall reside within the Authority and shall continue to reside therein during his term of office. (Emphasis added.)

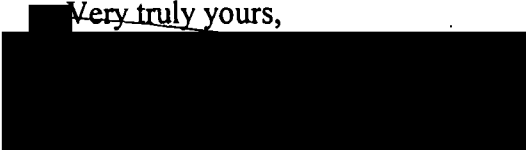
Under the plain and unambiguous language of section 3.4, airport authority commissioners must be residents of the territory of the airport authority in which they hold office during their terms of office. Nothing in the language of the statute suggests that this language is discretionary.

CONCLUSION

Section 5 of the Airport Authorities Act prohibits an individual from being appointed to the board of commissioners of an airport authority if he or she is a member of the governing body or an officer or employee of a municipality or other unit of local government. Accordingly, section 5 prohibits a city alderman, community college district employee, village planning commissioner, and conservation district trustee from serving simultaneously as an airport authority commissioner. In response to your second question, pursuant to section 3.4 of the Act, an airport authority commissioner must reside within the corporate limits of the airport authority in which he or she holds office during his or her term of office.

This is not an official opinion of the Attorney General. If we may be of further assistance, please advise.

Very truly yours,


LYNN E. PATTON
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Chief, Public Access and Opinions Division