

IDOT, and IDOT Division of Aeronautics,

Please consider this a complaint of the following Commissioner being disqualification from the office of Coles County Airport Authority Commissioner.

Also, please act on this promptly.

- **Mark Nelson – also an employee of the Mattoon CUSD 2 School District**

Meeting Agenda where appointment was ratified: https://mattoon.illinois.gov/download/city-council-meeting-2020-01-07-2/?ind=1578087768496&filename=1578087765wpm_010720.pdf&wpmddl=1635&refresh=5e17c352e0dc1578615634

CUSD 2 website noting Mark Nelson as employee:

<https://www.mattoon.k12.il.us/vnews/display.v/SEC/District/Contacts%7CTransportation>

Coles County has a population of more than 40,000, therefore, according to the statute, Mr. Nelson is prohibited from serving as Airport Authority Commissioner.

Section 5 of the Airport Authorities Act prohibits his appointment to Commissioner because he is employed by a school district in a county with a population in excess of 40,000.

(70 ILCS 5/5) (from Ch. 15 1/2, par. 68.5)

Sec. 5. Qualifications of commissioners and removal from office.
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.

*****(Coles County has a population in excess of 40,000)**

Should it appear to the Department of Transportation that any member of the Board of Commissioners of an airport authority may be disqualified, or guilty of misconduct or malfeasance in office or unwilling or unable to act, 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.

(Source: P.A. 88-109; 89-174, eff. 7-19-95.)

***Under Dillon's Rule, when a statute expressly authorizes something (such as permitting a school district employee to serve as commissioner when the Airport Authority is located in a county with a population of under 40,000) that authorization acts as a prohibition of all other school district employees located in any county, like Coles County, with a population in excess of 40,000 from serving as commissioner.

Ordinarily, when a person takes a position in conflict with a position already held, by operation of law, they automatically forfeit the previous position. However, in the case of an Airport Authority, if the Airport Authority position was taken while they were already an employee, officer, or member of the governing body (or school district in this case), they could have never been appointed in the first place due to the statutory prohibition – meaning their appointments are void from inception.

I respectfully ask IDOT to comply with the Airport Authorities Act ([70 ILCS 5/5](#)) notify the Board of Commissioners of the Coles County Airport Authority that it appears a member of their Board is disqualified and the Board of Commissioners shall have the duty to require such board members to show cause as to why they should not be removed from office.

Please consider this another formal complaint against Coles County Airport Authority Commissioners Mark Nelson for holding an office in which he is not qualified to hold, and I request IDOT to take action under 70 ILCS 5/5 to notify the Coles County Airport Authority Board of Commissioners, demand they notify their Commissioner of his right to show cause as to why he should not be removed from office, and demand the Coles County Airport Authority Board of Commissioners hold a public hearing to hear his show of cause.

Please confirm receipt of this email.

Thanks,
John Kraft

