



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

March 15, 2007

I - 07-008

**COUNTIES:**

Composition of County Emergency  
Telephone System Boards

Mary Stephenson-Schroeder  
General Counsel  
Illinois Commerce Commission  
160 North LaSalle Street, Suite C-800  
Chicago, Illinois 60601-3104

Dear Ms. Stephenson-Schroeder:

I have your office's letter regarding the proper composition of county emergency telephone system boards (CETS boards) appointed by county boards under subsection 15.4(a) of the Emergency Telephone System Act (the Act) (50 ILCS 750/15.4(a) (West 2004)). Specifically, your office asked: (1) in counties with a population of less than 100,000 inhabitants, whether more than one public member and more than one county board member may serve simultaneously on a five-member CETS board; (2) in such counties, whether a second county board member may be appointed to serve on a five-member CETS board as an "elected official," if one county board member has already been appointed to the CETS board; (3) in counties with a population of less than 100,000 inhabitants, whether more than one public member or more than one county board member may serve on a CETS board if the board is comprised of more than five members; and (4) in counties with a population of 100,000 or more, whether a county board member may simultaneously serve as a member of the CETS board.

For the reasons set out below: (1) in counties with a population of less than 100,000, no more than one public member and one county board member may serve simultaneously on a five-member CETS board; (2) in such counties, a second county board member may not be appointed as an "elected official" to serve on a five-member CETS board; (3) if the CETS board is comprised of more than five members, then more than one public member may serve on the board, but only one county board member may serve on the board; and (4) in counties with a population of 100,000 or more, a county board member may not simultaneously serve as a CETS board member.

### BACKGROUND

The General Assembly enacted the Act to provide "a simplified means of procuring emergency services \* \* \* [by] establish[ing] the number '911' as the primary emergency telephone number for use in this State and to encourage units of local government and combinations of such units to develop and improve emergency communication procedures and facilities[.]" Ill. Rev. Stat. 1975, ch. 134, par. 31. As originally enacted, the Act made no provision for the creation of emergency telephone system boards (ETS boards) to administer emergency telephone systems.

In 1987, the General Assembly granted certain units of local government the authority to impose a surcharge on telecommunication subscribers to assist in funding effective emergency telephone systems. Units of local government electing to impose a surcharge were required to create an ETS board to administer the monies derived from the surcharge. Ill. Rev. Stat. 1987, ch. 134, par. 45.4. The ETS board was to "consist of not fewer than 5 members, all of whom shall be appointed on the basis of their ability or experience." Ill. Rev. Stat. 1987, ch. 134, par. 45.4.

Section 15.4 of the Act was subsequently amended to provide that the ETS board should "consist of not fewer than 5 members, all of whom shall be representative of the public safety agency 9-1-1 users and appointed on the basis of their ability or experience" (Ill. Rev. Stat. 1989, ch. 134, par. 45.4), and then to provide that an ETS board:

*shall consist of not fewer than 5 members, one of whom may be a public member who is a resident of the local exchange service territory included in the 9-1-1 coverage area and others who shall be representative of the public safety agency 9-1-1 users and appointed on the basis of their ability or experience. (Emphasis added.)* Ill. Rev. Stat. 1990 Supp.; ch. 134, par. 45.4.

In opinion No. 91-028, issued July 26, 1991 (1991 Ill. Att'y Gen. Op. 63), Attorney General Burriss considered the issue of whether one person could simultaneously hold the offices of county board member and member of a CETS board under the provisions of subsection 15.4(a) quoted immediately above. Attorney General Burriss concluded that the provisions of section 1 of the Public Officer Prohibited Activities Act (Prohibited Activities Act) in effect at that time (*see* Ill. Rev. Stat. 1989, ch. 102, par. 1, now codified at 50 ILCS 105/1 (West 2005 Supp.))<sup>1</sup> clearly prohibited a county board member from serving on a CETS board, if the appointment to the CETS board was made by the county board of which he or she was a member. Further, under the common law doctrine of incompatibility of offices, Attorney General Burriss determined that the offices of county board member and CETS board member were incompatible because of a conflict in duties.

Subsequent to the issuance of opinion No. 91-028, the General Assembly amended section 1 of the Prohibited Activities Act (*see* Public Act 87-146, effective August 20, 1991) to provide that "[t]his Section shall not preclude a member of the county board from being selected or from serving \* \* \* as a member of an Emergency Telephone System Board as provided in Section 15.4 of the Emergency Telephone System Act". Subsection 15.4(a) of the Act was concomitantly amended to provide that ETS boards:

shall consist of not fewer than 5 members, one of whom may be a public member \* \* \*, *one of whom (in counties with a population less than 100,000) may be a member of the county board*, and at least 3 of whom shall be representative of the 9-1-1 public safety agencies[.] (Emphasis added.)

Language was later added to provide that "[e]lected officials are also eligible to serve on the board." *See* Ill. Rev. Stat. 1991, ch. 134, par. 45.4.

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<sup>1</sup>At the time of the issuance of opinion No. 91-028, section 1 of the Public Officer Prohibited Activities Act provided:

*No member of a county board, during the term of office for which he is elected, may be appointed to, accept or hold any office other than chairman of the county board or member of the regional planning commission by appointment or election of the board of which he is a member. 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 the County Personnel Advisory Board as provided in Section 12-17.2 of "The Illinois Public Aid Code", approved April 11, 1967, as amended, or as a member of a County Extension Board as provided in Section 7 of the "County Cooperative Extension Law", approved August 2, 1963, as amended. (Emphasis added.) Ill. Rev. Stat. 1989, ch. 102, par. 1.

Following these statutory changes, Attorney General Ryan was asked to determine the number of county board members who could serve simultaneously on a CETS board in counties with a population of less than 100,000 inhabitants. In opinion No. 96-041, issued December 4, 1996, Attorney General Ryan advised that, in counties with fewer than 100,000 inhabitants, section 15.4 permitted only one county board member to serve on a CETS board. He also concluded that nothing in the plain language of section 15.4 as amended either expressly or impliedly suggested that additional county board members could be appointed to serve on a CETS board if the board was comprised of more than five members.

Subsection 15.4(a) was thereafter amended (*see* Public Act 92-202, effective January 1, 2002) and currently provides:

(a) The corporate authorities of any county or municipality that imposes a surcharge under Section 15.3 shall establish an Emergency Telephone System Board. The corporate authorities shall provide for the manner of appointment and the number of members of the Board, provided that *the board shall consist of not fewer than 5 members, one of whom must be a public member who is a resident of the local exchange service territory included in the 9-1-1 coverage area, one of whom (in counties with a population less than 100,000) must be a member of the county board, and at least 3 of whom shall be representative of the 9-1-1 public safety agencies, including but not limited to police departments, fire departments, emergency medical services providers, and emergency services and disaster agencies, and appointed on the basis of their ability or experience. Elected officials are also eligible to serve on the board. (Emphasis added.) 50 ILCS 750/15.4 (West 2004).*

## ANALYSIS

### **Public Members and County Board Members on a Five-Member CETS Board**

Your office's first question is whether, in counties with a population of less than 100,000, more than one public member and more than one county board member may serve simultaneously on a five-member CETS board.

Under the rules of statutory construction, the use of the words "must" and "shall" is generally regarded as mandatory. *In re Parentage of M.J.*, 203 Ill. 2d 526, 535 (2003); *Andrews v. Foxworthy*, 71 Ill. 2d 13, 21 (1978). Thus, under subsection 15.4(a) of the Act, CETS boards, as well as all other ETS boards, are to consist of a minimum of five members, at least three of whom are required to be representative of public safety agencies such as police departments, fire departments, emergency medical service providers, and emergency services and disaster agencies. The remaining two positions are now required to be filled by one public member and, in counties with less than 100,000 inhabitants, by one county board member. *See* Remarks of Rep. Myers, May 9, 2001, House Debate on Senate Bill No. 530, at 97-98 (noting that in counties of less than 100,000 population, one member of the ETS board must, rather than may, be a county board member and one must be a public member); Remarks of Sen. Burzynski, March 29, 2001, Senate Debate on Senate Bill No. 530, at 150-51. Clearly, appointing a second public member to the exclusion of a county board member or a public safety agency representative would not be in accord with the plain language of subsection 15.4(a). It must be determined, however, whether a second county board member may be appointed as either a public member or as a public safety agency representative.

As discussed above, in opinion No. 91-028, Attorney General Burris concluded, on the basis of the provisions of section 1 of the Prohibited Activities Act then in effect, and with due regard for potential conflicts in duties under the common law, that one person could not simultaneously hold the offices of county board member and CETS board member. Subsequently, Public Act 87-146 amended both section 1 of the Prohibited Activities Act and subsection 15.4(a) of the Act to permit *one* county board member to serve simultaneously on an ETS board in counties with fewer than 100,000 inhabitants. Ill. Att'y Gen. Op. No. 96-041, issued December 4, 1996. It is within the power of the General Assembly to permit two offices to be held by the same individual, even though such offices would be incompatible at common law. *See* Ill. Att'y Gen. Op. No. NP-1099, issued May 28, 1976. The clear intention of the amendment to section 1 of the Prohibited Activities Act was to abrogate the statutory conflict and the common law doctrine insofar as it prohibited simultaneous tenure in the offices of county board member and ETS board member.

The General Assembly's action, however, was limited. The amendment authorized only one county board member to serve on an ETS board and only in those counties with a population of less than 100,000; in all other circumstances the common law doctrine remains in effect and the offices are incompatible.<sup>2</sup> Therefore, not more than one county board member is permitted to serve simultaneously on a five-member CETS board in counties with a

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<sup>2</sup>*See generally* *People v. Wilson*, 357 Ill. App. 3d 204 (2005) (section 1 of the Prohibited Activities Act prohibits a member of the county board from holding any other office, except for several specifically enumerated circumstances).

population of fewer than 100,000 inhabitants, regardless of whether the county board member is designated as a county board member, a public member, or a public safety agency representative. To conclude otherwise would ignore the obvious intent of the statute. *See* Ill. Att'y Gen. Op. No. 96-041, issued December 4, 1996.

### **Appointment of a Second County Board Member to a Five-Member CETS Board**

Your office has also asked whether a second county board member may be appointed to serve on a five-member CETS board as an "elected official" if one county board member has already been appointed to the CETS board. The revisions to section 1 of the Prohibited Activities Act and subsection 15.4(a) permitting one county board member to serve on a CETS board were specific, limited responses to opinion No. 91-028. Except to the very limited extent that the common law principle of incompatibility has been abrogated by statute, the offices of county board member and CETS board member remain incompatible. The language added by Public Act 87-146 referring to "elected officials" being eligible to serve on the board was no doubt intended only to clarify that elected officials, other than county board members, may serve on an ETS board as the public member or as representatives of public safety agencies without jeopardizing their positions as such. Consequently, a second county board member may not be appointed to serve on a five-member CETS board by virtue of being an "elected official."

### **Public Members and County Board Members on a CETS Board of More Than Five Members**

Your office's third question is whether more than one public member or more than one county board member may serve on a CETS board, if the board is comprised of more than five members appointed by the county board. The language of subsection 15.4(a) regarding the number of public members and county board members who may serve on a CETS board is clear: *one* member of the CETS board "must be a public member[.]" and *one* member of the board, in counties with a population of less than 100,000, "must be a member of the county board[.]" Nothing in the plain language of subsection 15.4(a) expressly or impliedly suggests, however, that additional public members cannot be appointed to a CETS board if the board consists of more than five members. Consequently, more than one public member may serve on a CETS board that is comprised of more than five members.

Although the language regarding county board members and members of the public serving on a CETS board is identical, as previously discussed, county board members are generally precluded from serving on a CETS board due to the doctrine of incompatibility of offices. The conflict has been abrogated by the General Assembly with regard to one county board member per CETS board. To conclude that more than one county board member may serve simultaneously on a CETS board comprised of more than five members would be

Mary Stephenson-Schroeder - 7

inconsistent with the provisions of section 1 of the Prohibited Activities Act and section 15.4 of the Act. Consequently, in counties with a population of less than 100,000, only one county board member may be appointed by a county board to serve on a CETS board at any one time, regardless of the size of the CETS board.


**County Board Members on a CETS Board  
in Counties With a Population of More Than 100,000**

Your office's last question is whether, in counties with a population of 100,000 or more, one county board member may serve on a CETS board pursuant to subsection 15.4(a). Subsection 15.4(a) requires the appointment of one county board member to ETS boards "in counties with a population less than 100,000[.]" The language is silent with respect to the appointment of county board members in larger counties.

Under section 1 of the Prohibited Activities Act, the offices of county board member and CETS board member are incompatible, except to the extent that the General Assembly has acted to permit simultaneous tenure. It is a well established principle of statutory construction that the enumeration of one exception in a statute implies the exclusion of all other exceptions. *People ex rel. Sherman v. Cryns*, 203 Ill. 2d 264, 286 (2003), *cert. denied*, 540 U.S. 818, 124 S. Ct. 83 (2003). By expressly authorizing one county board member to serve on CETS boards "in counties with a population less than 100,000[.]" the General Assembly has, by implication, continued the exclusion of county board members from service on a CETS board in all other instances. Consequently, under section 1 of the Prohibited Activities Act, it is not permissible for a county board member to serve on a CETS board in counties with a population over 100,000. *See generally Wilson*, 357 Ill. App. 3d 204.

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  
Senior Assistant Attorney General  
Chief, Opinions Bureau

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OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

**Lisa Madigan**  
ATTORNEY GENERAL

August 26, 2015

I - 15-007

GOVERNMENTAL ETHICS &  
CONFLICT OF INTEREST:  
Sheriff or Deputy Sheriff Serving on County's  
Emergency Telephone System Board

The Honorable Mark R. Isaf  
State's Attorney, Edgar County  
115 West Court Street, Room S  
Paris, Illinois 61944-1787

Dear Mr. Isaf:

I have your letter in which you state that the Edgar County Emergency Telephone System Board (the ETS Board) has agreed to compensate the Edgar County sheriff's office for providing dispatching services for the Edgar County Emergency Telephone System (the System). You inquire whether, in light of this agreement, either the Edgar County sheriff or an Edgar County deputy sheriff may serve simultaneously as a member of the ETS Board. For the reasons discussed below, in these circumstances, the offices of sheriff and deputy sheriff are incompatible with the office of ETS board member. Accordingly, neither the Edgar County sheriff nor an Edgar County deputy sheriff may serve simultaneously as a member of the Edgar County ETS Board. We are hopeful that this analysis will provide guidance for future appointments to ETS boards as consolidation and restructuring of the boards occurs to comply with the requirements of Public Act 99-006, effective in part June 29, 2015, and January 1, 2016.



## BACKGROUND

Pursuant to subsection 15.4(a) of the Emergency Telephone System Act (the Act) (50 ILCS 750/15.4(a) (West 2014)), a county that imposes a telephone surcharge to fund an emergency telephone system is required to establish a governing board for the system:

The corporate authorities shall provide for the manner of appointment and the number of members of the [ETS] Board, provided that the board shall consist of not fewer than 5 members, *one of whom must be a public member who is a resident of the local exchange service territory included in the 9-1-1 coverage area, one of whom (in counties with a population less than 100,000)<sup>1</sup> must be a member of the county board, and at least 3 of whom shall be representative of the 9-1-1 public safety agencies, including but not limited to police departments, fire departments, emergency medical services providers, and emergency services and disaster agencies, and appointed on the basis of their ability or experience. \* \* \* Elected officials, including members of a county board, are also eligible to serve on the board.* (Emphasis added.)<sup>2</sup>

Subsection 15.4(b) of the Act (50 ILCS 750/15.4(b) (West 2014)), which sets out the powers and duties of an ETS board, currently provides, in pertinent part:

(b) The powers and duties of the board shall be defined by ordinance of the \* \* \* county \* \* \*. The powers and duties shall include, but need not be limited to the following:

- (1) Planning a 9-1-1 system.
- (2) Coordinating and supervising the implementation,

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<sup>1</sup>According to the 2010 Federal decennial census, the population of Edgar County is 18,576 inhabitants. Illinois Blue Book 441 (2013-2014).

<sup>2</sup>Public Act 99-006, Article II, effective January 1, 2016, will amend numerous sections of the Act to create a single statewide 9-1-1 system. Specifically, section 15.4 of the Act will be amended to provide that on and after January 1, 2016, no municipality or county may create an ETS board unless it is a joint ETS board, new section 15.4a will be added to require consolidation of certain ETS boards by July 1, 2017, and numerous other changes will be made to implement the recommendations of the 9-1-1 Services Advisory Board. See 9-1-1 Services Advisory Board, Report to the Illinois General Assembly, April 1, 2015, *available at* <http://www.icc.illinois.gov/911servicesadvisoryboard/>.

upgrading, or maintenance of the system, including the establishment of equipment specifications and coding systems.

(3) *Receiving moneys from the surcharge imposed under Section 15.3, and from any other source, for deposit into the Emergency Telephone System Fund.*

(4) *Authorizing all disbursements from the fund.*

(5) Hiring any staff necessary for the implementation or upgrade of the system.

(6) Participating in a Regional Pilot Project to implement next generation 9-1-1, as defined in this Act, subject to the conditions set forth in this Act. (Emphasis added.)

In addition, subsection 15.4(c) of the Act (50 ILCS 750/15.4(c) (West 2014)) presently authorizes the Board to expend ETS funds for specified purposes:

(c) All moneys received by a board pursuant to a surcharge imposed under Section 15.3 shall be deposited into a separate interest-bearing Emergency Telephone System Fund account. The treasurer of the \* \* \* county that has established the board \* \* \* shall be custodian of the fund. All interest accruing on the fund shall remain in the fund. *No expenditures may be made from such fund except upon the direction of the board by resolution passed by a majority of all members of the board. Expenditures may be made only to pay for the costs associated with the following:*

\* \* \*

(7) \* \* \* products and services necessary for the implementation, upgrade, and maintenance of the system and *any other purpose related to the operation of the system, including costs attributable directly to the construction, leasing, or maintenance of any buildings or facilities or costs of personnel attributable directly to the operation of the system.* Costs attributable directly to the operation of an emergency telephone system do not include the costs of public safety agency personnel who are and equipment that is dispatched in response to an emergency call. (Emphasis added.)

## ANALYSIS

### Composition of an ETS board

A single county ETS board is an agency of the county. *See* Ill. Att'y Gen. Op. No. 96-038, issued December 3, 1996; Ill. Att'y Gen. Inf. Op. No. I-12-003, issued March 2, 2012; Ill. Att'y Gen. Inf. Op. No. I-07-047, issued September 13, 2007. The county board determines the number of members comprising the board and their method of selection. 50 ILCS 750/15.4(a) (West 2014). Subsection 15.4(a) of the Act requires that at least three members of an ETS board be representatives of 9-1-1 public safety agencies, "including but not limited to police departments, fire departments, emergency medical services providers, and emergency services and disaster agencies[.]"<sup>3</sup> The Act defines "public safety agency" as "a functional division of a public agency which provides firefighting, police, medical, or other emergency services." 50 ILCS 750/2.02 (West 2014).

A sheriff is a "conservator of the peace in his or her county," and is under a duty to "prevent crime and maintain the safety and order of the citizens of that county; and may arrest offenders on view[.]" 55 ILCS 5/3-6021 (West 2014). As the supervisor of safety for the county, the sheriff is also charged with enforcing the laws of this State, as well as municipal ordinances, relating to the regulation of motor vehicle traffic and the promotion of safety on public highways. 55 ILCS 5/3-6035, 3-6036 (West 2014). Deputy sheriffs may perform any and all of the duties of the sheriff, in the name of the sheriff, and the acts of the deputies are held to be acts of the sheriff. 55 ILCS 5/3-6015, 3-6016 (West 2014). Because it provides police services, the Edgar County sheriff's office constitutes a "public safety agency," as that term is defined in the Act.<sup>4</sup> Consequently, both the sheriff and a deputy sheriff would meet the requirements to serve on the Edgar County ETS Board as representatives of a public safety agency, unless they are otherwise disqualified from serving.

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<sup>3</sup>Your letter indicates that the Edgar County ETS Board consists of individuals representing the Paris Fire Department, Hume/Metcalf Police Department, Vermilion Fire Service, Paris Police and Fire Board, the sheriff of Edgar County, and a deputy sheriff of Edgar County. It appears that all of these individuals would be classified as representatives of the 9-1-1 public safety agencies. However, an ETS board is also required to include a public member who is a resident of the local exchange service territory included in the 9-1-1 coverage area, as well as a county board member. *See* 50 ILCS 750/15.4(a) (West 2014).

<sup>4</sup>*See also* *People ex rel. Rexses v. Cermak*, 239 Ill. App. 195, 200-01 (1925) (the police function of patrolling highways attaches to the sheriff); *People v. Dittmar*, 2011 IL App (2d) 091112, ¶29, 954 N.E.2d 263, 271-72 (2011) (holding that it was a "reasonable public-safety endeavor" for a deputy sheriff to check on a stopped vehicle because the deputy sheriff had reason to believe that the occupants might need assistance and/or that passing traffic may harm the occupants).

### Incompatibility of Offices

Incompatibility of offices arises where the constitution or a statute specifically prohibits the occupant of one office from holding another, or where the duties of the two offices are such that the holder of one cannot, in every instance, fully and faithfully discharge all of the duties of the other. *People ex rel. Fitzsimmons v. Swailes*, 101 Ill. 2d 458, 465 (1984); *People ex rel. Smith v. Brown*, 356 Ill. App. 3d 1096, 1098 (2005); *People ex rel. Myers v. Haas*, 145 Ill. App. 283, 286 (1908). There are no constitutional or statutory provisions expressly prohibiting one person from simultaneously holding the offices of sheriff or deputy sheriff<sup>5</sup> and ETS board member. The issue, therefore, is whether the duties of one of the offices are such that its holder could not, in every instance, fully and faithfully discharge all of the duties of the other.

It is our understanding that the Edgar County Board, with the approval of the sheriff, has entered into an agreement with the ETS Board pursuant to which the sheriff's office is compensated for providing dispatching services for the System.<sup>6</sup> According to your letter, the ETS Board "routinely votes on financial contributions to the Edgar County Sheriff's Department" for providing these services.

It has long been established that one person cannot adequately represent the interests of two governmental units when those units contract with one another. 1991 Ill. Att'y Gen. Op. 188, 189; 1975 Ill. Att'y Gen. Op. 37, 43-47; Ill. Att'y Gen. Inf. Op. No. I-07-006, issued March 2, 2007, at 3. Although the Edgar County ETS System is a county agency, it is nonetheless quasi-independent, with its own restricted funding sources and a separate governing body. For purposes of this analysis, therefore, the contractual relationship between the county and the ETS Board is analogous to a contractual relationship between two separate units of government.

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<sup>5</sup>Unlike a police officer, who was not considered an officer of the city at common law, a deputy sheriff is generally held to occupy an office. *See County of Winnebago v. Industrial Comm'n*, 39 Ill. 2d 260, 263-64 (1968). Accordingly, although the doctrine of incompatibility is not applicable to mere employees, it is applicable to deputy sheriffs, who are officers of the county.

<sup>6</sup>ETS boards are authorized to contract for the provision of emergency telephone system dispatching services, such as receiving telephone requests for emergency services and contacting the appropriate public agency for response. 50 ILCS 750/15.4(c)(7) (West 2014); *see also* Ill. Att'y Gen. Inf. Op. No. I-02-040, issued July 23, 2002. In instances where it is agreed that the county sheriff's office should provide dispatching services, the county board is the appropriate contracting entity for the sheriff. 1980 Ill. Att'y Gen. Op. 60; Ill. Att'y Gen. Inf. Op. No. I-02-040 at 6. While ETS boards may use ETS funds for the costs of dispatching services, the Act provides that "[c]osts attributable directly to the operation of an emergency telephone system do not include the costs of public safety agency personnel who are and equipment that is dispatched in response to an emergency call." 50 ILCS 750/15.4(c)(7) (West 2014). Accordingly, ETS boards are not authorized to expend ETS funds on public safety personnel and equipment dispatched on emergency calls.

One of the inherent duties of a county sheriff is to advise the county board on the needs and capabilities of the sheriff's office. See 1978 Ill. Att'y Gen. Op. 52; Ill. Att'y Gen. Inf. Op. No. I-96-014, issued January 4, 1996. Even if the Edgar County sheriff does not have the ultimate authority to contract with the ETS Board to provide dispatching services, the sheriff may nonetheless have significant influence over both the county board's and the ETS Board's decisions to enter into the agreement and the terms of the agreement. See *Peabody v. Sanitary District of Chicago*, 330 Ill. 250 (1928) (holding that a contract between the board of trustees of a sanitary district and a contractor was void because the treasurer of the district had a business relationship with the contractor and an interest in the contract); Ill. Att'y Gen. Inf. Op. No. I-07-006 (the offices of village commissioner and county sheriff are incompatible where the village contracts with the county for police protection services). If the sheriff or a deputy sheriff were to serve simultaneously as an ETS board member, he or she would be placed in the untenable position of balancing the interests of the sheriff's office and the ETS System. Because the sheriff's or the deputy sheriff's duties to the county and to the System would conflict in these circumstances, the sheriff (or a deputy sheriff) is necessarily precluded from also serving as a county ETS board member, unless another provision of Illinois law expressly permits such simultaneous tenure.

The General Assembly has established specific membership criteria for ETS boards, including the requirement that at least three members of such board be representatives of 9-1-1 public safety agencies. Although the definition of "public safety agency" in the Act would generally encompass a sheriff's office, there is no express requirement in subsection 15.4(a) that sheriffs or deputy sheriffs serve on an ETS board. Further, while section 15.4 provides that elected officials are eligible to serve on the board, the statutory language does not expressly address the offices of sheriff or deputy sheriff.

The Edgar County sheriff would have an actual conflict of duties if he were to serve simultaneously as a member of the ETS Board. Moreover, because a deputy sheriff is also a county officer whose powers are derived from the sheriff, the sheriff's conflict extends to his deputies. If the General Assembly had intended to permit a sheriff or a deputy sheriff to serve on an ETS board notwithstanding the potential conflicts stemming from simultaneous tenure, we may presume that the General Assembly would have included that specific authorization in the Act. The general language of subsection 15.4(a) that requires an ETS board to include representatives of public safety agencies and that authorizes elected officials to serve as members of ETS boards does not sufficiently demonstrate the legislature's intent to permit a sheriff to serve on an ETS board, conflicting duties notwithstanding. Accordingly, absent express statutory authorization permitting simultaneous tenure in these circumstances, neither the Edgar County sheriff nor an Edgar County deputy sheriff may simultaneously serve as a member of the Edgar County ETS Board.

The Honorable Mark R. Isaf - 7

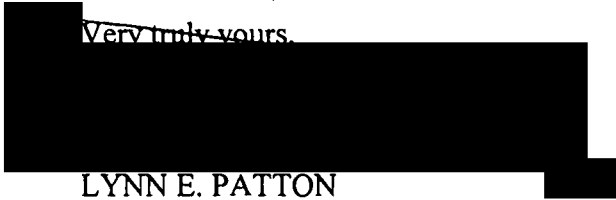
### CONCLUSION

Based upon the facts that you have provided, and in the absence of express statutory authorization, the offices of Edgar County sheriff and Edgar County deputy sheriff are incompatible with the office of Edgar County Emergency Telephone System Board member. Accordingly, one person cannot hold both offices simultaneously.

You have also referenced potential conflicts of interest affecting other members of the Edgar County ETS Board. Based on your brief description of these issues, I regret that we cannot address them without additional information. If you wish to supplement your inquiry, we will endeavor to advise you. Alternatively, I am providing two previously issued opinions (Ill. Att'y Gen. Inf. Op. No. I-12-003, issued March 2, 2012; Ill. Att'y Gen. Inf. Op. No. I-01-007, issued February 5, 2001) that may provide you with guidance regarding conflicts of interest generally, and the proper expenditure of emergency telephone system funds.

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

Very truly yours,

  
LYNNE E. PATTON  
Senior Assistant Attorney General  
Chief, Public Access and Opinions Division

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Enclosures