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No. NP-800

OFFICERS:
Compatibility - County
Board Member and Jury
Commissioner

Honorable Kelly D. Long
State's Attorney, Montgomery County
Courthouse
Hillsboro, Illinois 62049

Dear Mr. Long:

I have your letter wherein you state:

"Would you please render an opinion as to whether or not a County Board Member is prohibited by the Corrupt Practices Act (Ill. Rev. Stat. Ch. 102, Sec. 1) or any other law of the State of Illinois from also holding the position of a Jury Commissioner by appointment of the Circuit Court?"

From the general rule laid down in People v. Haas, 145 Ill. App. 283, it appears that incompatibility between offices arises where the Constitution, or a statute, specifically prohibits the occupant of either one of the offices

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from holding the other, or where, because of the duties of either office a conflict of interest may arise, or where the duties of either office are such that the holder of one cannot, in every instance, properly and faithfully perform all the duties of the other.

There is no constitutional or statutory provision which specifically prohibits a county board member from holding the office of jury commissioner. In regard to statutory provisions, section 1 of "AN ACT to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers" (Ill. Rev. Stat. 1973, ch. 102, par. 1) provides in pertinent part:

"§ 1. 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."

Section 1 of "AN ACT in relation to jury commissioners and authorizing judges to appoint such commissioners and to make rules concerning their powers and duties" (Ill. Rev. Stat. 1973, ch. 78, par. 24) provides in pertinent part:

"§ 1. In every county of this state now containing, or which may hereafter contain more than 40,000 inhabitants, and in any other county in which the county board by resolution determines that jury commissioners shall be appointed, the circuit judges in the circuit

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of which the county is a part, or a majority of them, shall choose 3 competent and discreet electors, who shall not be so chosen on account of party affiliations, who shall be known as jury commissioners. * * * The majority of the circuit judges herein referred to may remove either of such commissioners, assigning reasons therefor, and fill all vacancies occurring in the office of any such commissioners by death, resignation or removal."

Consequently, from the above cited language, it is clear that section 1 of "AN ACT to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers", supra, would not be applicable since the circuit judges, not the county board, appoint the jury commissioners.

It is my opinion, however, that the offices of county board member and jury commissioner are incompatible due to a conflict of interest. Section 6 of "AN ACT in relation to jury commissioners and authorizing judges to appoint such commissioners and to make rules concerning their powers and duties", supra, provides in pertinent part:

"§ 6. The said jury commissioners, clerk and assistants, shall be paid for their services by the county treasurer of the several counties, such compensation as shall be fixed by the county board, upon warrants drawn by the clerk of the county board. * * * "

Since a county board member would be part of the body empowered to fix his compensation as jury commissioner, a direct conflict

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of interest would exist.

Since it has been determined that incompatibility would exist due to a conflict of interest, it is not necessary to express any opinion as to the applicability of section 3 of "AN ACT to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers". (Ill. Rev. Stat. 1973, ch. 102, par. 3.) Thus, once again, it is my opinion that the offices of county board member and jury commissioner are incompatible.

Very truly yours,

A T T O R N E Y G E N E R A L