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I - 90-018

GOVERNMENTAL ETHICS AND
CONFLICT OF INTEREST:
Township Trustee Employed
By Road District

Honorable John Knight
State's Attorney, Bond County
Bond County Courthouse
Greenville, Illinois 62246

Dear Mr. Knight:

I have your letter wherein you inquire whether a member of a township board of trustees may simultaneously serve as a part-time, paid employee of the township road district. In addition, you ask whether any existing conflict may be remedied by the particular trustee declining to vote on any action that directly impacts upon the road district. Because of the nature of your inquiry, I do not believe that the issuance of an official opinion is necessary. I will, however, comment informally upon the questions you have raised.

Section 3 of "AN ACT to prevent fraudulent and corrupt practices in the making or accepting of official appointments and contracts by public officers" (hereinafter referred to as the Corrupt Practices Act) (Ill. Rev. Stat. 1987, ch. 102, par. 3) provides, in pertinent part:

"(a) No person holding any office, either by election or appointment under the laws or constitution of this state, may be in any manner interested, either directly or indirectly, in his own name or in the name of any other person, association, trust or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote. * * *

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Section 6-501 of the Illinois Highway Code (hereinafter referred to as "the Code") (Ill. Rev. Stat. 1987, ch. 121, par. 6-501) requires approval by the township board of trustees of any levy or appropriation by a road district composed of a single township. Under these circumstances, the township trustee in question would be required to vote upon the appropriation of funds from which his or her compensation as an employee of the road district would be paid. This appears to be the kind of pecuniary interest which section 3 of the Corrupt Practices Act is intended to prohibit. (Rogers v. Village of Tinley Park (1983), 116 Ill. App. 3d 437, 445.) It would appear, therefore that a township trustee may not ordinarily be employed as a paid, part-time general laborer by the road district for the township which he or she serves.

I note, however, that subsections 3(b) and 3(c) of the Corrupt Practices Act do permit a member of the governing body of a public entity to furnish services or labor if certain procedures, including disclosure of the pecuniary interest and abstention from voting on the award of the contract, are complied with, and the amount of the contract does not exceed the limits set therein. In this case, the only action which the trustee would take upon the contract would be the approval of the highway commissioner's appropriation and budget. Consequently, if the trustee in question abstains from voting upon the budget and appropriation, and the other criteria of the applicable exception are met, it appears that there would be no violation of section 3.

In response to the second portion of your inquiry, section 3 of the Corrupt Practices Act is applicable to any contract upon which such officer may be called upon to vote. It would appear, therefore, that abstention from voting does not absolve the officer from any conflict, except to the extent permitted under subsections (b) and (c) thereof. 1976 Ill. Att'y Gen. Op. 57.

Honorable John Knight - 3.

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

Very truly yours,



MICHAEL J. LUKE
Senior Assistant Attorney General
Chief, Opinions Division