



NEIL F. HARTIGAN
ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD
62706

September 6, 1988

I - 88-034

GOVERNMENTAL ETHICS AND
CONFLICTS OF INTEREST:
Corrupt Practices Act Violated
When County Board Member is Sheriff's Employee

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

Dear Mr. Knight:

I have your letter of July 1, 1988, wherein you inquire whether an individual may hold employment as a salaried dispatcher in the sheriff's office after being elected to the county board. Due to the nature of your inquiry, I will comment informally on the question 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" [the Corrupt Practices Act] provides that, with certain de minimus exceptions:

"(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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(Ill. Rev. Stat. 1987, ch. 102, par. 3.)

Honorable John Knight - 2

Clearly, this provision applies to employment relationships. (Robertson v. Binno (1978), 56 Ill. App. 3d 390; Rogers v. Village of Tinley Park (1983), 116 Ill. App. 3d 437; People ex rel Teros v. Verbeck (1987), 155 Ill. App. 3d 81; 1975 Ill. Att'y Gen. 281; 1980 Ill. Att'y Gen. 136.)

An employee of the sheriff's office has a direct pecuniary interest in his employment with the department. In counties of fewer than 2,000,000 inhabitants, the county board fixes the compensation, the necessary clerk hire and other expenses of the sheriff. (Ill. Rev. Stat. 1987, ch. 53, par. 37a.) Further, unless its authority to do so has been delegated pursuant to statute, the county board has a duty to audit and allow or disallow claims against county funds. (Ill. Rev. Stat. 1987, ch. 34, par. 605.) A county board member, in this circumstance, would therefore be in a position to act upon claims or vote upon appropriation ordinances from which his compensation as a sheriff's employee would be paid. This would constitute a personal pecuniary interest of the nature which section 3 of the Corrupt Practices Act is intended to prohibit. Consequently, it appears that a person could not continue to serve as an employee of the sheriff's office after election to the county board.

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



NEIL F. HARTIGAN
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STATE OF ILLINOIS
SPRINGFIELD
62706

July 22, 1988

I - 88-026

GOVERNMENTAL ETHICS AND
CONFLICT OF INTEREST
CORRUPT PRACTICES ACT

Honorable Kathleen Alling
State's Attorney
Jefferson County
Jefferson County Courthouse
Mt. Vernon, Illinois 62864

Dear Ms. Alling:

I have your letter wherein you inquire whether a county board member may simultaneously serve as a full-time, salaried employee of the sheriff of his county. Because of the nature of your question, I will comment informally on the question 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" [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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"

Honorable Kathleen Alling -2.

Pursuant to section 1 of "AN ACT in relation to the compensation of Sheriffs, etc." (Ill. Rev. Stat. 1987, ch. 53, par. 37a), it is the duty of the county board, in all counties of less than 2,000,000 inhabitants, to fix the compensation, the necessary clerk hire and other expenses of the sheriff. Section 35 of "AN ACT to revise the law in relation to counties" (Ill. Rev. Stat. 1987, ch. 34, par. 605) requires the county board to audit and allow or disallow claims against the county, except where the county board has delegated its authority to do so pursuant to section 35.1 of that Act (Ill. Rev. Stat. 1987, ch. 34, par. 605.1).

Under these circumstances, the county board member in question would be required to vote upon the appropriation of funds from which his or her compensation as an employee of the sheriff would be paid. Moreover, it may be the responsibility of the board member to act upon the allowance or disallowance of his or her own claims for compensation as an employee of the sheriff. This appears to be a personal pecuniary interest of the nature which section 3 of the Corrupt Practices Act is intended to prohibit. (See Panozzo v. City of Rockford (1940), 306 Ill. App. 443, 456; see also Rogers v. Village of Tinley Park (1983), 116 Ill. App. 3d 437, 445.) Therefore, it would appear that a county board member may not simultaneously be employed by the sheriff of his county without violating section 3 of the Corrupt Practices Act.

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

Very truly yours,

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

MJL:cj