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 ATTORNEY GENERAL
 STATE OF ILLINOIS
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 SPRINGFIELD

December 12, 1972

FILE NO. NP-546

OFFICERS:
 Compatibility

Honorable William J. Cowlin
 State's Attorney
 Court House Annex Building
 P.O. Box 545
 Woodstock, Illinois 60098

Dear Mr. Cowlin:

I have your recent letter wherein you state:

"I would request an opinion as to whether or not a Village Clerk may also run for the County Board of Supervisors without a conflict of interests. I believe your last opinion on this type of matter was #324 dated 1961."

From the general rules 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 from holding the other, or where, because of the duties of either office, a conflict of interest may arise,

REPLY

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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 are no express constitutional or statutory prohibitions against simultaneously serving as village clerk and as a member of the county board.

The interests of a village and county can often be conflicting. An individual holding a policy-making office in each of these governmental units would be confronted with many potential conflicts of interest. As a member of a county board, an individual certainly holds a policy-making office, since the powers of a county are exercised through the county board. (Ill. Rev. States, 1971, ch. 34, par. 302.) The duties of a village clerk, however, are ministerial rather than policy-making:

"The municipal clerk shall keep the corporate seal, to be provided by the corporate authorities, and all papers belonging to the municipality the custody and control of which are not given to other officers. He shall attend all meetings of the corporate authorities, and keep a full record of its proceedings in the journal.

Copies of all papers duly filed in his office, and transcripts from the journals and other records and files of his office, certified by him under the corporate seal, shall be evidence in all courts in like manner as if the originals were produced." Ill. Rev. Stats. 1971, ch. 24, par. 3-10-7.

Honorable William J. Cowlin -3

The above duties of a village clerk would not conflict with the individual's duties as a county board member.

Therefore, in my opinion, a village clerk may also serve on a county board without a conflict of interest.

Very truly yours,

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



ROLAND W. BURRIS

ATTORNEY GENERAL
STATE OF ILLINOIS



March 10, 1993

I-93-016

COMPATIBILITY:
Township Assessor and
Village Clerk

~~Honorable~~-Patricia Reid Lindner
State Representative, 65th District
House Post Office
Springfield, Illinois 62706

Dear Representative Lindner:

I have your letter wherein you inquire whether the offices of village clerk and township assessor are incompatible. Because of the nature of your inquiry and your need for an expedited response, I will respond informally thereto.

In opinion No. 92-006, issued April 22, 1992, Attorney General Burris advised:

" * * *

Two public offices are deemed to be incompatible where the written law of the State specifically prohibits the occupant of either one of the offices in question from holding the other, 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 office. (People ex rel.

Myers v. Haas (1908), 145 Ill. App. 283, 386;
Rogers v. Village of Tinley Park (1983), 116 Ill.
App. 3d 437, 440.)

* * *

Because there appears to be no statutory or constitution prohibition against the simultaneous holding of the offices of village clerk and township assessor, it is necessary to determine whether there is any potential conflict in the duties of the two offices.

The duties of the village clerk include, inter alia, keeping the corporate seal and papers of the municipality, attending meetings of the village board of trustees and keeping a full record of the board's proceedings. (Ill. Rev. Stat. 1991, ch. 24, par. 3-10-7; 65 ILCS 5/3-10-7 (West 1992).) Specific documents that are to be filed with the clerk include, for example, warrants and vouchers (Ill. Rev. Stat. 1991, ch. 24, par. 3-10-2; 65 ILCS 5/3-10-2 (West 1992)); ordinances, motions and resolutions (Ill. Rev. Stat. 1991, ch. 24, par. 3-11-18; 65 ILCS 5/3-11-18 (West 1992)); and oaths and bonds of city-officers (Ill. Rev. Stat. 1991, ch. 24, par. 3-14-3; 65 ILCS 5/3-14-3 (West 1992)). The clerk may also administer oaths and affirmations (Ill. Rev. Stat. 1991, ch. 24, par. 3-9-3, 65 ILCS 5/3-9-3 (West 1992)) and countersign warrants (Ill. Rev. Stat. 1991, ch. 24, par. 8-1-8; 65 ILCS 5/8-1-8 (West 1992)).

The function of the township assessor, on the other hand, is to view and determine the assessed valuation of property listed for taxation. (Ill. Rev. Stat. 1991, ch. 120, par. 524; 35 ILCS 205/43 (West 1992).) The assessor's determinations are subject to review by other assessing officials, and the village has authority to be heard with respect to the value placed on particular pieces of property. (See, e.g., Ill. Rev. Stat. 1991, ch. 120, pars. 589 and 589.2; 35 ILCS 205/108 and 205/108.6) Because property owned by the village which is not used exclusively for public purposes may be subject to taxation (Ill. Rev. Stat. 1991, ch. 120, par. 500.9; 35 ILCS 205/19.9), the township assessor could be required to assess village property or a dispute could arise over whether certain property of the village is taxable. In opinion No. S-590, issued May 22, 1973, (1973 Ill. Att'y Gen. Op. 83, 85), Attorney General Scott advised that the offices of township assessor and school board member were incompatible for those reasons.

Representative Patricia Reid Lindner -3.

A school board member, however, is a member of the governing board of the school district; the village clerk is not a member of the village board of trustees. (Ill. Rev. Stat. 1991, ch. 24, par. 3-12-5; 65 ILCS 5/3-12-5 (West 1992).) The clerk has no authority to vote or take any other action on behalf of the village with respect to assessment matters. Consequently, there appears to be no conflict between the duties of the two offices, and there is no reason that one person would not be able to discharge the duties of each office fully and faithfully in every instance.

It appears, therefore, that the offices of village clerk and township assessor are not incompatible, and one person may simultaneously hold both offices.

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

MJL:SJR:jp