

# Did You Know?

## Compatibility of Public Offices or Positions

Are you a public employee and are considering running for a township office? If elected, would you be serving simultaneously in two or more public positions?

The Ohio Attorney General (AG) routinely issues opinions concerning the compatibility of public offices or positions. An issue of compatibility is presented whenever one person wishes to simultaneously hold two or more positions of public service. A 1979 Attorney General Opinion sets forth a series of questions used to analyze and determine whether particular public offices or positions are compatible (OAG 79-111).

1. *Is either of the positions a classified employment with the terms of R.C. §124.57?*
2. *Do the empowering statutes of either position limit employment in another public position or the holding of another public office?*
3. *Is one office subordinate to, or in any way a check upon, the other?*
4. *Is it physically impossible for one person to discharge the duties of both positions?*
5. *Is there a conflict of interest between the two positions?*
6. *Are there local charter provisions, resolutions or ordinances that are controlling?*
7. *Is there a federal, state or local departmental regulation applicable?*

Located on the Attorney General's website, the Compatibility of Public Offices or Positions index serves as a reference guide to the many opinions issued that have addressed the compatibility of particular public offices or positions ([www.ohioattorneygeneral.gov/Files/Publications/Publications-for-Government/Compatibility-of-Public-Offices-or-Positions-Index](http://www.ohioattorneygeneral.gov/Files/Publications/Publications-for-Government/Compatibility-of-Public-Offices-or-Positions-Index)). The index lists specific public positions or offices that are either compatible or incompatible, and enumerates the various AG opinions that have made those determinations. The Attorney General's office updates the list as necessary. The current index was last revised in January 2015.

The AG may find two positions compatible so long as certain important qualifiers or limiting conditions have been satisfied. The AG's office strongly recommends that the opinions listed under particular positions or offices be consulted whenever one questions the propriety of serving simultaneously in those positions or offices to ascertain the presence or absence of such qualifiers or restrictions.

In other instances, whether certain positions are compatible may hinge upon the question of whether a person will be subject to an impermissible conflict of interest while serving in those positions. Opinions rendered may have depended upon the specific facts and circumstances unique to the situation in which dual positions were held. Again, prior opinions should be thoroughly reviewed to identify if such fact or circumstances are germane to your situation.

Finally, current versions of statutes, administrative regulations, or local rules or ordinances that establish or govern a specific office or position always should be examined to determine whether subsequent amendments have added or removed restrictions upon holding other offices or positions.

At the right are examples of compatible and incompatible positions relating to the township fiscal officer and trustee positions. To view the complete list, please visit the Ohio Attorney General's website listed above.

*\*Did You Know is for informational purposes only and not intended as legal advice.*

### Fiscal Officer, Township

#### Compatible with:

Administrator, village.....	1993; 93-048
Auditor, county, deputy .....	1999; 99-045
Cemetery board, sexton .....	1937; 1278
Clerk-treasurer, village .....	2002; 2002-021
Commissioner, county.....	2003; 2003-006
Highway Department, State, unclassified.....	1960; 597
Office administrator, prosecutor's office.....	1999; 99-019
Police officer, village .....	1971; 71-065
Recorder, county.....	1931; 146
Sheriff, county, deputy.....	1963; 260
Solicitor, village .....	1963; 203
Treasurer, county, employee.....	1960; 94
Treasurer, village .....	1915; 2339

#### Incompatible with:

Administrator, township.....	1977; 77-037
Health district, general, board member .....	1963; 566
Highway department, county, employee .....	1972; 72-109
Park district, board of commissioners, member .....	1992; 92-053
Trustee, township .....	1904; 204

### Trustee, Township

#### Compatible with:

Administrator, village.....	1994; 94-013
Bus driver, public school .....	1958; 305
Civil service, state, classified employee in .....	1978; 78-022
Engineer, county, employee .....	1997; 97-045
Fire chief, township, volunteer .....	1987; 87-084
Fire chief, village .....	1986; 86-030
Fireman, volunteer fire department .....	1978; 78-017
General Assembly, member .....	1930; 1848
Maintenance man, village .....	1986; 86-059
Prosecuting attorney, county, assistant .....	2001; 2001-027
Roads, county superintendent of.....	1913; 1087
Transportation, Department of, operator.....	1985; 85-080
Zoning commission, county, member .....	2004; 2004-015

#### Incompatible with:

Administrator, county.....	1999; 99-043
Clerk (now Fiscal Officer), township .....	1904; 204
Commissioner, county.....	2012; 2012-008
Council, village, member .....	1911; 1072
Dog warden, county .....	1962; 213
Highway department, county, employee .....	1962; 361
Park commissioner, county district .....	1988; 88-033
Planning commission, regional, member .....	1965; 65-069
Prosecuting attorney, county, assistant .....	1988; 88-049
Sheriff, county, deputy.....	1961; 335
Zoning inspector, county .....	1985; 85-074