

TO: Equalization Directors  
Assessing Officers  
FROM: State Tax Commission

No. 24 - October 14, 1982  
Township Supervisor  
Assessing Duties Compensation

STATE OF MICHIGAN

FRANK J. KELLEY, ATTORNEY GENERAL

INCOMPATIBILITY: Office of township supervisor  
and position of township manager

TOWNSHIPS: Payment of compensation to  
township supervisor for per-  
forming assessor duties.

A township supervisor of a noncharter township may not simultaneously serve as township manager of the same township since these positions are incompatible.

A township supervisor is precluded from receiving additional compensation for the performance of assessor duties.

Opinion No. 6083

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You have requested my opinion on two questions. The first question is:

May the township supervisor be appointed by the township board of a noncharter township as township manager and serve in the capacity and hold the dual positions of township manager and township supervisor?

A township supervisor is a member of the township board pursuant to RS 1846, Ch 16, § 70; MCLA 41.70; MSA 5.62. Township managers are provided for by RS 1846, Ch 16, § 75a; MCLA 41.75a; MSA 5.67(1):

"The township board may employ a township manager. The manager shall serve at the pleasure of the township board...."

The township board has the power of appointment and removal of a township manager, and the manager is, therefore, subordinate and subject to the supervision of the township board. The township supervisor, as a member of the township board, participates in that supervision.

1978 PA 566; MCLA 15.181 et seq; MSA 15.1120(121) et seq, precludes public officers or public employees from holding two or more incompatible offices at the same time. 1978 PA 566, supra, § 1(b), defines "incompatible offices":

"'Incompatible offices' means public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held:

- (i) The subordination of 1 public office to another.
- (ii) The supervision of 1 public office by another.
- (iii) A breach of duty of public office."

The subordination/supervision criteria are the same under 1978 PA 566, supra, as they were at common law, and the first and second criteria apply here, particularly when "the incumbent of one of the offices has the power of appointment as to the other office, or the power to remove the incumbent of the other." OAG, 1979-1980, No 5626, pp 537, 542 (January 16, 1980).

It is my opinion, therefore, that a township supervisor of a noncharter township may not simultaneously serve as township manager of the same township since these positions are incompatible.

Your second question is:

May the township board, after the township supervisor's salary is established, vote and pay the supervisor an additional compensation for services rendered in assessing township property and preparing township tax rolls when such additional payment is voted after the services are rendered?

RS 1846, Ch 16, § 61; MCLA 41.161; MSA 5.52, provides in pertinent part:

"The supervisor shall, by virtue of his office, be an assessor in his township...In any township, in addition to the supervisor, the township board may provide for the appointment of assessors, not exceeding two, for such township. Such assessors when appointed shall be clothed with all the powers and duties of supervisors in the assessment of property for taxation within such township and shall receive for their services such compensation as may be allowed by the township board. Whenever assessors shall be appointed, as in this act provided, the supervisor shall be the chief assessing officer and such assessors shall in all cases be subordinate to such supervisor...." [Emphasis added.]

The compensation of township officers was discussed in OAG, 1951-1952, No 1431, (July 30, 1951), p 320, 321, where it is stated:

"Township officers whose compensation for their terms of office has been fixed by either the electors at the annual meeting or, in case of their failure to act, by the township board at its next regular meeting are not entitled to receive additional compensation, per diem or otherwise, for the performance of their regular duties." [Emphasis added.]

In keeping with OAG, 1951-1952, No 1431, supra, it is my opinion that in view of the fact that the regular duties of a township supervisor statutorily include the assessment function under RS

1846, Ch 16, § 61, supra, for which the township supervisor is compensated, including the performance of the assessment function, additional compensation for the performance of such duties is prohibited.

  
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