

Chapter 2: Elected Township Officials

(a) when one public office is subordinate to another held by the same person;

(b) when one public office supervises another held by the same individual, and

(c) when performance of a duty in one public office results in a breach of duty. The attorney general has ruled that abstaining from voting to avoid any conflict of interest is a breach of duty.

The statute authorizes the attorney general or prosecuting attorney to sue in circuit court for any violation of the incompatible public offices restrictions, but does not authorize any private litigation. A court order may make any action void that was taken by a person holding an incompatible office.

The attorney general has previously required resignation or leave of absence in cases where a firefighter was elected township trustee or a building inspector was elected township supervisor. However, it is the opinion of this author that an appointed township official (such as a firefighter or building inspector) who is elected to township office may be delegated the duties of his or her former appointed position, in addition to those of his or her elected position, as long as the delegated duties are not ones the elected official is already required to perform by statute. The individual could be paid for the performance of those delegated duties by the township board under authority of MCL 41.96 and Article XI, Section 3 of the Michigan Constitution. (See also *Burton Township vs. Speck*, 387 Mich 213, affirming 1 Mich App 339.) An appointed official elected to township office should temporarily resign from the appointed office in order to comply with the statute and allow the township the option of appointing another individual to the position or assigning the duties to him or her.

For townships with a population of less than 25,000, the incompatible offices legislation does not prohibit

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township public servants from serving as emergency medical services personnel, part-time firefighters or other additional services, with the exception of fire chief, full-time firefighter or negotiator for the firefighters. (MCLs 15.183 and 15.322) The foregoing fire chief incompatibility provision does not apply in a township under 3,000 population which provision therefore can be held by a township public officer or public employee under MCL 15.183.

Restrictions on contracts between public servants and a township

Under MCL 15.323, if a public servant works less than 25 hours per week, he or she may contract with the township if the servant is benefitted under the contract in an amount less than \$250 and less than 5 percent of the public cost of the contract. In the absence of the foregoing, in order for the public servant to contract with the township, he or she must file a sworn affidavit setting forth the pecuniary interest in the contract at least seven days prior to the meeting at which a vote will be taken on the contract which shall be publicly disclosed. Approval of the contract must be by at least two-thirds of the township board members excluding the public servant's vote unless the public servant's vote is required by law or a quorum is not present without the public servant's participation. The township board is authorized to adopt an ordinance pertaining to conflicts of interest in subjects other than public contracts involving public servants.

General law township supervisor

The supervisor is frequently the first official contacted about any township business or complaint and is often perceived as the township spokesperson.

It must be realized, however, that the authority of the supervisor is limited to that provided by statute or delegated by the township board. The image of the township and its ability to satisfy the needs of its citizens and property owners rests largely on the supervisor's knowledge of township government and how it can accomplish these purposes legally, fairly and with the least amount of dissension and friction as possible. The ability to mediate such dissension and friction in a rational and logical manner and in the interests of good township development and service is a goal to which every supervisor should aspire.

Meeting responsibilities

When present, the supervisor is the moderator of any township meeting, (MCL 41.72a) with the authority to place a person under oath on any statement made to the supervisor in his or her official capacity as supervisor. He or she also has the right and duty to regulate the proceedings of any meeting, including deciding questions of order, making declaration of votes cast, granting authority to persons to speak at the meeting and silencing those who may be out of order or disrupting the meeting (MCLs 41.97-41.99). If the supervisor is absent at any board meeting, the clerk opens the meeting and the members present select a chairperson from among the board members.

In a **charter township**, if the supervisor is absent from a meeting of the township board, the board must appoint one of its members president pro tem for that meeting (MCL 42.5(2)).

For **general law townships**, if the township holds an annual meeting or a special meeting of the electors and the supervisor is absent, all electors present at the meeting elect a moderator by voice vote under the direction of the township clerk. The township clerk

has the same powers and duties as the moderator until a moderator is chosen (MCL 41.97).

As a member of the township board, the supervisor should vote on all issues upon which a vote is required, unless there is a conflict of interest or some proper legal reason for abstaining. Under the oath of office, as with all other elected officials, the supervisor is required to support the U.S. and Michigan Constitutions and "faithfully discharge the duties of the office of supervisor according to the best of my ability." The supervisor may call special meetings of the township board that otherwise can only be called by a written request of a majority of the township board members or by a majority vote at a previous meeting in a **general law township** and by two members of a **charter township** board.

Robert's Rules of Order is often used to decide procedural questions, but the book has no official status unless formally adopted as a rule of order by the board or by the inhabitants at an annual or special meeting. Without such adoption, the supervisor may determine procedural questions. Where a person is breaching the peace at any public meeting, the supervisor may order the person to leave the meeting. If the person refuses to leave, he or she is deemed guilty of a misdemeanor punishable by a fine up to \$50 (MCL 41.101).

Property assessment responsibilities

The supervisor is the chief assessing officer of the township, responsible for assessing property values within the township at 50 percent of its true cash value (MCL 41.61). Even if he or she is not a certified assessor, he or she is still responsible for this duty. Any other assessors required to perform the function are subordinate to the supervisor. In assessing property,

the supervisor and assessing officials may use only those manuals approved by the State Tax Commission. The township board is authorized to appoint additional assessors and is required to do so if the supervisor is not certified. Such assessors still remain subordinate to the supervisor.

As the assessing officer, the supervisor, if properly certified by the State Tax Commission, is required to prepare an assessment roll covering all taxable real and personal property within the township on or before the first Monday in March, with the valuations being determined as of December 31 of the preceding year (MCL 211.24). The roll is delivered to the board of review by the Tuesday following the first Monday in March. The board of review must complete its review by the first Monday in April (MCL 211.30a).

On the Tuesday following the second Monday in April, the board of county commissioners meets in an equalization session on all assessment rolls throughout the county. County equalization must be completed by the first Monday in May. On the second Monday in May, the preliminary state equalization is presented. The final state equalization order is issued on the fourth Monday in May.

Similarly, the board of review is authorized to meet on the Tuesday after the third Monday in July to correct any clerical errors or mutual mistakes on assessments.

By September 30, the township clerk must deliver certified copies of all the township clerk's certificates for levying taxes to the supervisor and the county clerk (MCL 211.36(1)). If the supervisor certifies any clerical error or mutual mistake of fact in the assessment roll to the board of review, it may meet on the Tuesday following the second Monday in December to correct the roll. The error may be in the current roll or the preceding

year's roll. The board of review may also hold a July or December session to hear principal residence (formerly known as homestead) and agricultural property tax exemption appeals and poverty exemption appeals.

Under the General Property Tax Act, the supervisor is required to act as the secretary to the board of review and must keep a record of the proceedings of the board and all changes made in the township assessment roll (MCL 211.33). The township board can assign a clerical employee to assist the board of review members in keeping an accurate account of the meetings. As secretary of the board of review, however, the supervisor must be responsible for the accuracy of the clerical employee's work. The supervisor must file the record of board of review proceedings and assessment roll changes with the township clerk, together with the statements made before the board. The supervisor does not act, however, as a voting member of the board of review, except on poverty exemptions.

The supervisor is required to preserve and keep all books, assessment rolls and other papers belonging to the office in a safe and suitable place and deliver them on demand to the successor in office. On application of any person, the supervisor must provide certified copies of any papers or abstracts from any assessment roll or book in his or her office. A reasonable charge may, however, be made for these copies. See page 209 for additional information on charges for copies of public records under the Freedom of Information Act.

Fiscal responsibilities

The supervisor is the township's agent for transacting all legal business, upon whom suits may be brought and defended and upon whom all process against the township is served. Unless some other official has been so designated, the supervisor is

considered the chief administrative officer for the development of the township budget. If authorized by the township board, the supervisor may appoint someone to assist in performing official duties and provide compensation as the township board may determine.

Although no specific person is designated by law to submit the township's budget for allocation purposes to the county tax allocation board (as required unless the county is on fixed millage), the supervisor is generally considered the party to perform this function. The budget must be filed on or before the third Monday in April of each year. At the same time, the supervisor should present to the tax allocation board a sworn statement showing the date on which any vote was taken to increase the total tax limitation within the township, the number of votes cast for and against the increase and the amount and length of time of the increase. Where separate tax limitations have been voted by the county electors, the allocation board is abolished and the foregoing filings are eliminated.

Miscellaneous responsibilities

Planning commission members are appointed by the supervisor, with township board approval. The supervisor, clerk and treasurer constitute the board of township election commissioners in a **general law township**, with the clerk acting as its chairperson. This board is in general charge of elections within the township under the supervision of the secretary of state.

In the event a disaster or emergency occurs within the township, the supervisor or township emergency management coordinator must contact the district emergency management coordinator to request state assistance or a declaration of a state of disaster or emergency. (MCL 30.414)

If the county board of commissioners has not established an animal control officer, the township supervisor may investigate and report on the number and sex of dogs within the township and the name of each owner. The supervisor is paid for this service at a rate determined by the county board of commissioners. If submitted, the report must be made on or before June 1 of each year.

Additional responsibilities

In addition to statutory duties and responsibilities, the supervisor and other township board members are frequently delegated additional functions and duties by the township board. Township board members may be paid extra compensation for non-statutory duties, provided the sum is established before the duty is performed (MCL 41.96 and Article XI, Sec. 3, of the Michigan Constitution).

It is the opinion of the author that these additional duties may be delegated, performed and compensated for. Although MCL 15.403(2) states that a public employee shall resign or may be granted a leave of absence from other township employment during his or her elected term when elected to township office, the author believes this statute does not relate to additional delegated duties. It should be recognized, however, that duties and responsibilities delegated by statute to a particular officer cannot be taken away from that officer and given, or taken over, by someone else without that officer's written consent. In other words, the supervisor can no more assume or interfere with the functions of the clerk or treasurer than the clerk or treasurer can assume the duties and responsibilities of the supervisor or any other statutory official. Each officer has independent functions and duties except when acting as a member of the board.

MCLs 15.183 and 15.322 further eliminate conflict restrictions on a public officer or employee from being authorized to perform additional services for the township having a population of less than 25,000, with or without compensation.

Deputy supervisor

In 1982, MCL 41.61 was amended to authorize the supervisor to appoint a deputy township supervisor. The deputy possesses all powers and duties of the supervisor during the supervisor's absence, sickness, death or other disability. The deputy, however, does not have a right to moderate or to vote on the township board. With the supervisor's approval and the consent of the township board, the deputy may assist the supervisor at any additional times agreed to by the board and the supervisor. The deputy's compensation is determined by the township board. The deputy need not be a qualified elector or taxpayer of the township.

In both a **general law** and a **charter township**, the deputy would not be permitted to chair the township board meeting. The township board must appoint one of its members to chair the board meeting when the supervisor is absent. (MCLs 41.72a and 42.5)

At the annual meeting of the electors, in the absence of the supervisor, the electors present select a chairperson. (MCL 41.97)

In the event of a recall, the deputy is authorized to perform the supervisor's duties until a successor is appointed or elected. Again, however, this does not include the right to vote on the township board.

Charter township supervisor

What has previously been written about the supervisor of a **general law township** equally applies to the supervisor of a **charter township** except as noted here.

A **charter township** board has the authority to appoint a township superintendent and to delegate functions specified in the statute. Any functions that are not delegated to the superintendent are exercised by the supervisor. Accordingly, the supervisor may engage in the following activities and duties if they have not been delegated to a superintendent (MCL 42.10).

a) to see that all laws and township ordinances are enforced;

b) to manage and supervise all public improvements, works and undertakings of the township;

c) to have charge of the construction, repair, maintenance, lighting and cleaning of streets, sidewalks, bridges, pavements, sewers, and all public buildings or other property belonging to the township;

d) to manage and supervise the operation of all township utilities;

e) to be responsible for the preservation of property, tools and appliances of the township;

f) to see that all terms and conditions imposed in favor of the township or its inhabitants in any public utility franchise or in any contract are faithfully kept and performed;

g) to attend all township board meetings with the right of the superintendent to discuss issues, but not vote;

h) to be an ex-officio member of all committees of the township board;

i) to prepare and administer the annual budget under policies formulated by the township board and keep the board fully advised at all times as to the financial condition and needs of the township;

j) to recommend to the township board for adoption such measures as he or she may deem necessary or expedient;