

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

IC 4-2-6-9(a) Conflicts of interest

40 IAC 2-1-8 Moonlighting

SEC found there was no conflict of interest in a DOL construction inspector serving as an elected township trustee and assessor for the remainder of his current term, provided that the inspector did no inspections in the township where he was an elected township trustee and assessor.

**91-I-25: Conflict of Interest, Moonlighting
Indiana State Ethics Commission
Official Advisory Opinion
(Decision December 12, 1991)**

FACT SITUATION

After the Department of Labor hired a construction inspector, it discovered that the inspector was an elected Union Township, Delaware County, Trustee and Assessor (elected November 6, 1990, for a four-year term). The Department of Labor was willing to remove the construction inspector from any inspection assignment in the township where he held the office of trustee and assessor. As a covered employee under the Hatch Act, the inspector was prohibited from seeking re-election while a covered employee.

The state responsibilities of the construction inspector included inspecting work sites to determine if they met rules and regulations pertaining to safety and health. The inspector was currently training in Richmond but his home station would be Eaton, Indiana. The work of the inspector involved going to a construction site and checking for health and safety regulation violations. The assigned area was five counties -- Delaware, Jay, Grant, Blackford, and Hendricks Counties.

The construction inspector said that the hours for the office of township trustee and assessor were twenty-four hours a day, but he personally worked from two to fifteen hours a week, usually in the evenings, because he had always had a job in addition to assessor duties. The township's population was about 4,600 people. Duties as a trustee included assessing property of any construction firm located within the township, including personal property. However, there were not any major contractors in the township. One contractor who builds houses could possibly build outside the township.

QUESTION

Was there a conflict of interest for a construction inspector in the Department of Labor due to being an elected township trustee and assessor?

OPINION

The Commission found it was not a conflict of interest for a construction inspector in the Department of Labor to be an elected township trustee and assessor for the remainder of his present term, provided that the inspector did no inspections in the township where he was an elected township trustee and assessor.

The relevant rules are as follows:

40 IAC 2-1-8, on Moonlighting provides, "A state employee shall not engage in outside employment or other outside activity not compatible with agency rules or the full and proper discharge of public duties and responsibilities. This outside employment or other outside activity must not impair independence of judgment as to official responsibilities, pose a likelihood of conflict of interest, or require or create an incentive for the employee to disclose confidential information acquired as a result of official duties."

IC 4-2-6-9(a), on Conflict of interest provides, "A state officer or employee may not participate in any decision or vote of any kind in which the state officer or the employee or that individual's spouse or unemancipated children has a financial interest."