

**OPINION NO. 2006-047****Syllabus:**

A person may serve simultaneously as a village street and water department employee and trustee of a regional sewer district established pursuant to R.C. Chapter 6119, provided that in his capacity as a trustee he does not participate in any deliberations, discussions, negotiations, or votes concerning (1) a tax levy for additional funding when the village has a tax levy on the ballot for additional funding for the village's street and water department; (2) a matter relating to the provision of water service to users within the village; or (3) a legal matter involving the regional sewer district and village.

---

**To: C. David Warren, Athens County Prosecuting Attorney, Athens, Ohio**

**By: Jim Petro, Attorney General, November 7, 2006**

You have requested an opinion whether a person may serve simultaneously as a village street and water department employee and trustee of a regional sewer district established pursuant to R.C. Chapter 6119.<sup>1</sup> For the reasons that follow, we

<sup>1</sup> R.C. 6119.01 states:

Any area situated in any unincorporated part of one or more contiguous counties or in one or more municipal corporations, or both, may be organized as a regional water and sewer district in the manner and subject to the conditions provided in [R.C. Chapter 6119], for either or both of the following purposes:

(A) To supply water to users within and without the district;

(B) To provide for the collection, treatment, and disposal of waste water within and without the district.

You have informed us that territory in a township and three villages, including the village employing the person in its street and water department, has been organized into a regional water and sewer district pursuant to R.C. Chapter 6119. The district provides for the collection, treatment, and disposal of waste water in the township and villages, but does not supply water to users in the township or villages. The regional water and sewer district has thus been designated a regional sewer district. *See* R.C. 6119.011(U) (“[r]egional water and sewer district’ means a

believe that a person may serve simultaneously in these two positions, provided that in his capacity as a trustee he does not participate in any deliberations, discussions, negotiations, or votes concerning (1) a tax levy for additional funding when the village has a tax levy on the ballot for additional funding for the village's street and water department; (2) a matter relating to the provision of water service to users within the village; or (3) a legal matter involving the regional sewer district and village.

### Compatibility Test

The following seven questions are used to ascertain the compatibility of two public positions:

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

*See* 2003 Op. Att'y Gen. No. 2003-041 at 2-335 and 2-336. *See generally* 2 Ohio Admin. Code 123:1-46-02(F) (“[s]ervice in an appointed or elected position is prohibited when such position is subordinate to or in any way a check upon a position concurrently occupied by a classified or unclassified employee, or when it is physically impossible for one person to discharge the duties of both positions, or if some specific constitutional or statutory bar exists prohibiting a person from serving [in] both positions”).

Questions six and seven ask whether a charter provision, resolution, or ordinance, or federal, state, or local departmental regulation prohibits a person from

---

district organized or operating for one or both of the purposes described in [R.C. 6119.01] and, if organized or operating for only one of such purposes, may be designated either a regional water district or a regional sewer district, as the case may be”); R.C. 6119.02(A)(4) (the petition for the establishment of a regional water and sewer district must specify “[a] general description of the purpose of the proposed district”).

holding two particular public positions simultaneously. No charter provision<sup>2</sup> or state or federal regulation prohibits a person from serving simultaneously as a trustee of a regional sewer district and village street and water department employee. Additionally, whether an applicable local resolution, ordinance, or departmental regulation prohibits a person from serving simultaneously in these two positions is a question for local officials to answer. It is assumed, for the purpose of this opinion, that no such local resolution, ordinance, or departmental regulation exists.

#### Discussion of R.C. 124.57

Question one asks whether either of the positions is a classified employment within the terms of R.C. 124.57, which prohibits officers and employees in the classified service from taking part in a variety of activities that occur as part of the regular political process and are partisan in nature.<sup>3</sup> As explained in 2001 Op. Att’y Gen. No. 2001-034 at 2-203, R.C. 124.57 does the following: it prohibits an officer or employee in the classified service from seeking election or appointment to, or holding, a partisan political office, or engaging in other partisan political activities, and it prevents a partisan political officeholder from serving simultaneously as an officer or employee in the classified service. *See* rule 123:1-46-02(C).

We must therefore determine whether a trustee of a regional sewer district or village street and water department employee is an officer or employee that is subject to R.C. 124.57’s prohibition. R.C. 124.57 regulates the partisan political activities of officers and employees of “the state, the several counties, cities, and city school districts of the state, [and] the civil service townships of the state.” It does not apply to officers or employees of regional sewer districts or villages.<sup>4</sup> *See* 2000 Op. Att’y Gen. No. 2000-025 at 2-167 (R.C. 124.57 does not apply to officers and employees of a park district created under R.C. Chapter 1545 since R.C. 124.57

<sup>2</sup> The village in question has not adopted a charter for its government. *See generally* Ohio Const. art. XVIII, § 7 (“[a]ny municipality may frame and adopt or amend a charter for its government and may, subject to the provisions of section 3 of this article, exercise thereunder all powers of local self-government”).

<sup>3</sup> R.C. 124.57 provides, in pertinent part:

*No officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political party or for any candidate for public office; . . . nor shall any officer or employee in the classified service of the state, the several counties, cities, and city school districts of the state, or the civil service townships of the state be an officer in any political organization or take part in politics other than to vote as the officer or employee pleases and to express freely political opinions. (Emphasis added.)*

<sup>4</sup> In certain instances the employees of a regional sewer district are treated as if they are in the classified service of the state. R.C. 6119.37 states, in part:

does not explicitly refer to such officers and employees). *See generally Fort Hamilton-Hughes Mem'l Hosp. Ctr. v. Southard*, 12 Ohio St. 3d 263, 265, 466 N.E.2d 903 (1984) (“[i]t is a basic doctrine of [statutory] construction that the express enumeration of specific classes of persons in a statute implies that the legislature intended to exclude all others”). Accordingly, R.C. 124.57’s prohibition does not apply to the positions of trustee of a regional sewer district and village street and water department employee, and, as such, does not operate to prevent a person from serving in both of these positions simultaneously.

(B) Division (C) of this section applies to the persons described in that division and to all former employees of a municipal corporation who:

(1) Were employed in the municipal departments responsible for supplying water or for collecting, treating, and disposing of waste water;

(2) Were granted employment rights and protection under the charter of the municipal corporation or provisions adopted pursuant to the charter similar to those granted to employees in the classified state service under [R.C. Chapter 124]; and

(3) Lost their employment with the municipal corporation because of the creation or expansion of a regional water and sewer district or because of the transfer of a facility of the municipal corporation to a regional water and sewer district and became employees of the district after the creation, expansion, or transfer.

(C) All persons described in division (B) of this section shall, while employed by the district, be subject to the provisions of [R.C. Chapter 124] that govern the appointment, promotion, transfer, reinstatement, lay-off, reduction in pay or position, suspension, removal, and political activity of employees in the classified state service, and for the purposes of these provisions shall be treated as if they were employees in the classified state service. This division also applies to all persons employed by a regional water and sewer district after persons described in divisions (B)(1), (2), and (3) of this section become employees of the district.

This section does not apply, however, to trustees of a regional sewer district. *See generally* R.C. 6119.02(A)(6) (the petition for the establishment of a regional water and sewer district must specify “[t]he manner of selection, the number, the term, and the compensation of the members of the governing body of the district, which shall be called a board of trustees”); R.C. 6119.071 (“[a] member of the board of trustees of a regional water and sewer district who has been appointed to the board may be removed by the appointing authority for misfeasance, nonfeasance, or malfeasance in office.... A member of a board of trustees who has been removed pursuant to this section may appeal the removal not later than thirty days after the removal to the court of common pleas constituted as provided in [R.C. 6119.03]”).

### **Constitutional Provisions and Statutes Prohibiting the Holding of Another Public Position**

Question two asks whether a constitutional provision or the empowering statutes of either position limit employment in another public position or the holding of another public office. No constitutional provision or statute prohibits a person from serving simultaneously in the positions of trustee of a regional sewer district and village street and water department employee. Accordingly, question two may be answered in the negative.

### **Subordination and Control**

Question three asks whether one position is subordinate to, or in any way a check upon, the other. A trustee of a regional sewer district is an appointed officer of the district who serves at the pleasure of, and is responsible to, his appointing authority.<sup>5</sup> See R.C. 6119.02(A)(6); R.C. 6119.071. A village street and water department employee is employed by the village and accountable to village officials. See R.C. 731.13; R.C. 735.27; R.C. 735.273; R.C. 735.29; R.C. 735.32-.33. Because neither position is responsible for appointing or removing the other, the positions of trustee of a regional sewer district and village street and water department employee are not subordinate to each other. The positions also operate independently of each other, and neither is required to assign duties to, or supervise, the other. Accordingly, neither position is subordinate to, or in any way a check upon, the other.<sup>6</sup>

### **Physical Ability to Hold and Serve in Both Positions**

Question four asks whether it is physically possible for one person to perform the duties of both public positions. This is a factual question that is best

<sup>5</sup> You have informed us that in your particular situation each township and village that has territory included in the regional sewer district appoints two members to the district's board of trustees.

<sup>6</sup> If a village's water facilities are transferred to a regional sewer district when the district expands its services to supply water to the users within the village, a person who is an employee in the village's street and water department may become an employee of the regional sewer district. See R.C. 6119.37. See generally R.C. 6119.051 ("[a]t any time after the creation of a water and sewer district, the district, after action by its board of trustees, may file a petition in the court of common pleas requesting the order of such court permitting the district to . . . [i]ncrease or add to its purposes heretofore approved by the court so long only as its purposes are those described in [R.C. 6119.01]"). When such a situation occurs, the person may not serve simultaneously as a trustee of, and employee for, the regional sewer district because an employment position with the district is subordinate to, and under the control of, the board of trustees of the district. See 1979 Op. Att'y Gen. No. 79-099 at 2-308 ("[t]here can be a no stronger case of subordination, and, therefore, incompatibility, than a direct employer-employee relationship"); cf. 1990 Op. Att'y Gen. No. 90-021 (syllabus) ("[a] registered nurse employed by a municipal hospital may not simultaneously serve as a member of the board of governors of that hospital").

resolved by the officials of the village and regional sewer district since they may more precisely determine the time constraints and demands imposed upon the person as a village employee and member of the board of trustees of the regional sewer district. *See* 2003 Op. Att’y Gen. No. 2003-041 at 2-339.

In order to serve simultaneously in the positions of trustee of a regional sewer district and village street and water department employee, however, a person must be certain that he will be able to discharge the duties of both positions in a competent and timely manner. *Id.* This means that there may not be a direct conflict between the times when the person is needed to perform duties on behalf of the regional sewer district and the village.<sup>7</sup> *Id.*

#### **Conflicts of Interest**

The fifth and final question asks whether there is a conflict of interest between the two positions.<sup>8</sup> A person may not hold two public positions concurrently if the “responsibilities in one position are such as to influence the performance of his duties in the other position, thereby subjecting him to influences which may prevent his decisions from being completely objective.” 1980 Op. Att’y Gen. No. 80-035 at 2-149.

We must now review the powers, duties, and responsibilities of a trustee of a regional sewer district and village street and water department employee so as to determine whether there are any conflicts of interest between these two positions. If our review discloses conflicts, we must then determine whether the conflicts may be avoided or eliminated entirely, thus allowing the person to hold both positions at the same time. The factors used in making this determination include, but are not limited to, the probability of the conflicts occurring, the ability of the person to remove himself from any conflicts that may occur, whether the person exercises decision-making authority in both positions, and whether the conflicts relate to the primary functions of each position, or to financial or budgetary matters. 2003 Op. Att’y Gen. No. 2003-041 at 2-340.

Let us first review the general duties and responsibilities of the position of

---

<sup>7</sup> If the person, as a village street and water department employee, is required to perform his duties as a trustee of a regional sewer district during the time he is required to perform his duties as a village employee, he will have to take approved vacation or personal leave or leave without pay for the time he is absent from his duties as a village employee.

<sup>8</sup> The Ohio Ethics Commission is authorized by R.C. 102.08 to issue advisory opinions regarding the ethics and conflict of interest provisions of R.C. Chapter 102 and R.C. 2921.42-.43. Because of this specific grant of authority to the Ohio Ethics Commission, we will refrain from interpreting and applying these provisions by way of a formal opinion of the Attorney General. 1987 Op. Att’y Gen. No. 87-033 (syllabus, paragraph three). We therefore recommend that you contact the Ohio Ethics Commission for guidance concerning the application of these provisions in your particular situation.

village street and water department employee. According to information you have provided us, a person in this position is responsible for making repairs to, and cleaning up trash and other debris on, village streets and property, and performing such other duties as village officials prescribe. *See* R.C. 735.27; R.C. 735.273; R.C. 735.29; R.C. 735.32-.33. In addition, the position monitors the village's water supply system, performs water meter readings, and turns on or shuts off water service to customers. *See* R.C. 735.273; R.C. 735.29; R.C. 743.04.

We will now turn to the powers, duties, and responsibilities of a member of a board of trustees of a regional sewer district. This type of board of trustees is responsible for providing for the collection, treatment, and disposal of waste water in territory located within the district.<sup>9</sup> R.C. 6119.01(B). In order to carry out this responsibility, a board may, *inter alia*, make loans and grants to political subdivisions for the acquisition or construction of water resource projects,<sup>10</sup> R.C. 6119.06(F), acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease, or rent water resource projects, R.C. 6119.06(G), adopt rules and regulations to protect water resource projects, R.C. 6119.06(N); R.C. 6119.08, make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of the board's duties, R.C. 6119.06(O); *see* R.C. 6119.06(P); R.C. 6119.09, make provision for, contract for, or sell any of its by-products or waste, R.C. 6119.06(Q), exercise the power of eminent domain, R.C. 6119.06(R); R.C. 6119.11, receive and accept federal or state grants for or in aid of the construction of any water resource project, R.C. 6119.06(T), and do all acts necessary or proper to carry out the board's powers, R.C. 6119.06(AA). In addition, a board of trustees of a regional sewer district may levy and collect taxes and special assessments, R.C. 6119.06(I); R.C. 6119.17; R.C. 6119.18, and issue bonds and notes and refunding bonds and notes, R.C. 6119.06(J).

<sup>9</sup> A regional sewer district may provide for the collection, treatment, and disposal of waste water in territory located outside of the district. *See* R.C. 6119.01(B); R.C. 6119.06(H); R.C. 6119.06(P); R.C. 6119.09; 1984 Op. Att'y Gen. No. 84-059 at 2-195 and 2-196.

<sup>10</sup> For purposes of R.C. Chapter 6119, a "water resource project" means:

[A]ny waste water facility or water management facility acquired, constructed, or operated by or leased to a regional water and sewer district or to be acquired, constructed, or operated by or leased to a regional water and sewer district under [R.C. Chapter 6119] or acquired or constructed or to be acquired or constructed by a political subdivision with a portion of the cost thereof being paid from a loan or grant from the district under [R.C. Chapter 6119], including all buildings and facilities which the district considers necessary for the operation of the project, together with all property, rights, easements, and interest which may be required for the operation of the project.

R.C. 6119.011(G).

A review of the powers, duties, and responsibilities of the respective positions discloses that there are several potential conflicts of interest between the two positions. First, a potential conflict exists because of the competition for tax moneys in excess of the ten-mill limitation.<sup>11</sup> Both the legislative authority of a village and board of trustees of a regional sewer district may submit to voters within the territory of the village a tax levy in excess of the ten-mill limitation.<sup>12</sup> See R.C. 133.01(NN)(2); R.C. 133.18; R.C. 5705.01(C), (H); R.C. 5705.07; R.C. 5705.19; R.C. 6119.06(I); R.C. 6119.18; 1999 Op. Att’y Gen. No. 99-020. Where both the village and regional sewer district contemplate asking the voters for a tax levy for additional funding on the same ballot, a person who serves at the same time as a village street and water department employee and trustee of a regional sewer district might find himself subject to divided loyalties. See, e.g., 2006 Op. Att’y Gen. No. 2006-003 at 2-27; 2004 Op. Att’y Gen. No. 2004-025 at 2-227; 1988 Op. Att’y Gen. No. 88-011 at 2-43. For example, if the village has authorized a tax levy for additional operating funds for the village’s water and street department, see, e.g., R.C. 5705.07; R.C. 5705.19, the person, as a member of the board of trustees of the regional sewer district, might be apprehensive about placing a regional sewer district levy for additional funding on the same ballot for fear that the village tax levy may be rejected in favor of the regional sewer district tax levy. See 2006 Op. Att’y Gen. No. 2006-003 at 2-27; 2004 Op. Att’y Gen. No. 2004-025 at 2-227; 1988 Op. Att’y Gen. No. 88-011 at 2-43. “Questions of competing concerns before the electorate may be critical to determining whether or when a board might consider bringing requests for additional taxes before the voters, particularly requests for special levies.” 1988 Op. Att’y Gen. No. 88-011 at 2-43.

We believe, however, that this conflict of interest is insufficient to render the positions of village street and water department employee and trustee of a regional sewer district incompatible. It is unlikely that both the village and regional sewer district will have a tax levy for additional funding on the same ballot every election. Thus, deliberations, discussions, or votes by the board of trustees of the regional sewer district concerning the placement of a tax levy for additional funding on the ballot when the village has previously placed a tax levy for additional operating funds for the village’s water and street department on the ballot will be infrequent.

In addition, when the board of trustees of a regional sewer district considers

<sup>11</sup> Under Ohio Const. art. XII, § 2, no property may be taxed in excess of one percent of its true value in money for all state and local purposes, except when approved by the voters or provided for by a municipal charter. 1999 Op. Att’y Gen. No. 99-015 at 2-115 n.2. This is known as the “ten-mill limitation.” 2001 Op. Att’y Gen. No. 2001-019 at 2-107 n.1; see R.C. 5705.02; R.C. 5705.03; R.C. 5705.07. For the purpose of paying the current operating expenses of the subdivision, the subdivision’s taxing authority is authorized to levy property taxes within the ten-mill limitation. R.C. 5705.03(A); 2001 Op. Att’y Gen. No. 2001-019 at 2-107.

<sup>12</sup> As explained in note one, *supra*, the regional sewer district includes territory in the village.

placing a levy on the ballot for taxes in excess of the ten-mill limitation, a trustee who is employed by a village is able to remove himself from any deliberations, discussions, or votes on the tax levy insofar as the board of trustees is capable of functioning and performing its statutory duties when one of its members abstains from participating in a matter. *Cf.* 2004 Op. Att’y Gen. No. 2004-025 at 2-228. *See generally State ex rel. Gretick v. Jeffrey*, 12 Ohio St. 3d 55, 56, 465 N.E.2d 412 (1984) (a county commissioner who is a principal at a high school may refrain from voting on a matter involving school property assessments and avoid a conflict of interest); *State ex rel. Saxon v. Kienzle*, 4 Ohio St. 2d 47, 48, 212 N.E.2d 604 (1965) (“[i]n the absence of a statute to the contrary, any action by a board requires that a quorum participate therein, and that a majority of the quorum concur”). It is also well established that, in a matter in which a public officer is exposed to influences that may prevent him from making completely objective and disinterested decisions, the officer should refrain from participating in the matter. 2004 Op. Att’y Gen. No. 2004-025 at 2-228; 1994 Op. Att’y Gen. No. 94-079 at 2-394.

Moreover, the fact that a trustee of a regional sewer district holds an additional employment with a village that competes with the district for tax moneys generated in excess of the ten-mill limitation is, in and of itself, an insufficient reason to find that the trustee is subject to an impermissible conflict of interest. *See* 2006 Op. Att’y Gen. No. 2006-003 at 2-28; 2004 Op. Att’y Gen. No. 2004-051 at 2-443; 2004 Op. Att’y Gen. No. 2004-025 at 2-228; *see also State ex rel. Corrigan v. Hensel*, 2 Ohio St. 2d 96, 99, 206 N.E.2d 563 (1965). If this reason were deemed sufficient, a person would not be permitted to hold a public position with two different political subdivisions that compete with each other for tax moneys generated in excess of the ten-mill limitation. *See* 2006 Op. Att’y Gen. No. 2006-003 at 2-28; 2004 Op. Att’y Gen. No. 2004-051 at 2-443; 2004 Op. Att’y Gen. No. 2004-025 at 2-228.

Hence, a trustee of a regional sewer district who serves as a village street and water department employee should abstain from participating in deliberations, discussions, and votes on a regional sewer district tax levy for additional funding when the village which employs him has already placed a levy on the ballot for additional funding for the village’s street and water department. *See* 2006 Op. Att’y Gen. No. 2006-003 at 2-29; 2004 Op. Att’y Gen. No. 2004-051 at 2-444. In light of the foregoing, we believe that the potential conflicts of interest that arise from the competition over tax moneys generated in excess of the ten-mill limitation do not render the positions of trustee of a regional sewer district and village street and water department employee incompatible, provided the person, as a trustee, does not participate in deliberations, discussions, or votes on a tax levy for additional funding that occur after the village has placed a tax levy on the ballot for additional funding for the village’s street and water department. *See generally State ex rel. Gretick v. Jeffrey*, 12 Ohio St. 3d at 56, 465 N.E.2d 412 (“[p]ossibility of conflict of interest is insufficient to oust a duly elected public official from office”); *State ex rel. Corrigan v. Hensel*, 2 Ohio St. 2d at 99, 206 N.E.2d 563 (“[t]he law does not punish an officeholder for what he ‘could do’ or where there was a ‘possibility’ or opportunity to commit some wrongful act”).

Conflicts of interest may also arise because the board of trustees may participate in deliberations, discussions, negotiations, or votes concerning matters relating to the provision of water service to users within the village. This may include, but is not limited to, the board of trustees of the regional sewer district making plans to supply water to users within the village, R.C. 6119.051, entering into contracts with the village to accomplish this task, R.C. 743.24; R.C. 6119.06(H); R.C. 6119.06(P); R.C. 6119.09, loaning or granting money to the village for this purpose, R.C. 6119.06(F), or providing facilities to the village for this purpose, R.C. 6119.06(G). If a person who serves as a trustee of a regional sewer district and village street and water department employee were required, as a trustee, to deliberate, discuss, negotiate, or vote on a matter relating to the provision of water service to users within the village, it might be difficult for the person to make fair and impartial decisions because of his employment in the village's street and water department. *Cf.* 2006 Op. Att'y Gen. No. 2006-003 at 2-31 and 2-32.

It is our opinion, however, that these conflicts of interest may be avoided. When matters relating to the provision of water service to users within the village come before the board of trustees of the regional sewer district, the person will be able to remove himself from deliberations, discussions, negotiations, or votes on such matters without impairing the board's ability to discharge its duties with regard to those matters. *See id.* at 2-32. By abstaining from participating in such matters, the person accedes to the general rule requiring a public officer or employee to abstain from participating in a matter in which his objectivity might be impaired. *See id.* Accordingly, conflicts of interest that may occur with regard to the provision of water service by a regional sewer district to users within a village do not render the positions of trustee of a regional sewer district and village street and water department employee incompatible, provided the person does not participate, as a trustee, in deliberations, discussions, negotiations, or votes on such matters.

A conflict of interest may also exist because a village and regional sewer district may become involved in legal actions or proceedings against each other. *See* R.C. 715.01; R.C. 6119.06(D); R.C. 6119.08. In such a situation, a trustee of a regional sewer district who serves as a village street and water department employee may be required to participate in deliberations, discussions, negotiations, or votes concerning legal matters between the regional sewer district and village, and, as such, may be subject to divided loyalties. *See* 2006 Op. Att'y Gen. No. 2006-003 at 2-32 and 2-33.

For the several reasons expressed above, this conflict of interest does not render the positions about which you ask incompatible. As a general matter, there should be few occasions in which litigation will ensue between the village and regional sewer district. In addition, the person, as a trustee of the regional sewer district, is able to remove himself from deliberations, discussions, negotiations, or votes concerning a legal matter between the district and village without impairing the district's ability to pursue a favorable legal resolution to the matter. Such abstention allows the trustee to adhere to the basic principle that a public officer or employee not participate in a matter in which his objectivity might be impaired. *See* 2004 Op. Att'y Gen. No. 2004-051 at 2-447. The foregoing conflict thus does not

render the positions of trustee of a regional sewer district and village street and water department employee incompatible, provided the person as a trustee does not participate in any deliberations, discussions, negotiations, or votes concerning legal matters involving the regional sewer district and village.

**Conclusion**

Based on the foregoing, it is my opinion, and you are hereby advised that a person may serve simultaneously as a village street and water department employee and trustee of a regional sewer district established pursuant to R.C. Chapter 6119, provided that in his capacity as a trustee he does not participate in any deliberations, discussions, negotiations, or votes concerning (1) a tax levy for additional funding when the village has a tax levy on the ballot for additional funding for the village's street and water department; (2) a matter relating to the provision of water service to users within the village; or (3) a legal matter involving the regional sewer district and village.