



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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March 2, 2015

OAG—01—11

Mr. Bradley D. Lawrence
Corporation Counsel
Pierce County
Post Office Box 307
Ellsworth, WI 54011-0367

Dear Mr. Lawrence:

¶ 1. Your special assistant inquires concerning the eligibility of a sitting member of the county board of supervisors to be appointed to the permanent position of administrative coordinator.

BACKGROUND

¶ 2. Your county board apparently created the office of administrative coordinator more than fifteen years ago. Your special assistant advises that the county board chair has recently been appointed to fill the position of interim administrative coordinator and has simultaneously held the offices or positions of county supervisor, county board chair, and interim administrative coordinator since that time. Your special assistant also indicates that the county board would like to fill the position of administrative coordinator on a permanent part time basis. He further states that “it became apparent to members of the County Board that one member of the Board, in particular, demonstrated both the skills, interest, and ability within the County’s budgetary limitations to fill the office [of administrative coordinator] on a part-time basis.”

QUESTION PRESENTED AND BRIEF ANSWER

¶ 3. I have rephrased the principal question posed by your special assistant, as follows: Must a sitting member of the county board resign the office of supervisor before being appointed to the permanent position of county administrative coordinator under Wis. Stat. § 59.19?¹

¹Your special assistant also asks whether Wis. Stat. § 19.59(1) or Wis. Stat. § 946.13 prohibits a sitting county supervisor from negotiating employment terms for his or her prospective permanent appointment as administrative coordinator or from participating in the approval of such employment terms. In light of my answer to the principal question, it appears to me to be unnecessary at this time to address the applicability of those statutes to those facts.

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¶ 4. In my opinion, the answer is yes.

ANALYSIS

¶ 5. Wisconsin Stat. § 66.0501(2) precludes a sitting county supervisor from accepting any other county office or position unless expressly authorized to do so:

Except as expressly authorized by statute, **no member of a . . . county board . . . during the term for which the member is elected, is eligible for any office or position** which during that term has been created by, or **the selection to which is vested in, the board . . .** This subsection does not apply to a member of any board . . . described in this subsection who resigns from the board . . . before being appointed to an office or position which was not created during the member's term in office.

Because the county board does select the administrative coordinator, *see* Wis. Stat. § 59.19, a supervisor must resign from the board before accepting the administrative coordinator position unless a statutory exception applies. Wis. Stat. § 66.0501(2). *Compare, e.g.,* 55 Op. Att’y Gen. 260, 261 (1966): “If the supervisor were to resign as supervisor, he could thereafter be elected or appointed to the veterans’ service officer position. Such member takes a risk in resigning, since he cannot be assured of being selected county veterans’ service officer.” The statutory authorization must be “express[.]” Wis. Stat. § 66.0501(2). An example of express statutory authorization for a county supervisor to hold another office or position is Wis. Stat. § 59.52(9), which provides: “The board may appoint a person or committee as county purchasing agent, and provide compensation for their services. **Any county officer or supervisor may be the agent** or a committee member.” There is no comparable statutory language expressly authorizing a county supervisor to serve as administrative coordinator.

¶ 6. Furthermore, Wis. Stat. § 59.10(4) indicates that, with certain stated and very limited exceptions not relevant to your inquiry, the office of county supervisor is incompatible with any other county office or employment: “COMPATIBILITY. No county officer or employee is eligible for election or appointment to the office of supervisor . . .” A person employed as an administrative coordinator could not be elected or appointed to the office of county supervisor without relinquishing his employment as administrative coordinator. Because there is no greater degree of compatibility between the two positions in the reverse situation in which the office of

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county supervisor is the first position that is held, there is no apparent reason why the Legislature would permit a county supervisor to accept the permanent position of administrative coordinator.²

¶ 7. It can be argued that Wis. Stat. § 59.19 contains a statutory exception to Wis. Stat. § 66.0501(2) for situations in which a supervisor is appointed to the position of administrative coordinator. Wisconsin Stat. § 59.19 provides:

In any county which has not created the office of county executive or county administrator, the board shall designate, no later than January 1, 1987, an elected or appointed official to serve as administrative coordinator of the county. The administrative coordinator shall be responsible for coordinating all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.

Exceptions within a statute are strictly construed. *See McNeil v. Hansen*, 2007 WI 56, ¶ 10, 300 Wis. 2d 358, 731 N.W. 2d 273. Wisconsin Stat. § 59.19 contains no language expressly authorizing a county supervisor to serve as administrative coordinator.

¶ 8. I construe the language contained in Wis. Stat. § 59.19 as **limiting** the office of administrative coordinator to persons who are elective or appointive county officials rather than as **authorizing** any and all elective or appointive county officials to serve as administrative coordinator. “[S]tatutory language is interpreted in the context in which it is used; not in isolation but as part of a whole; in relation to the language of surrounding or closely-related statutes; and reasonably, to avoid absurd or unreasonable results.” *State ex rel. Kalal v. Circuit Court*, 2004 WI 58, ¶ 46, 271 Wis. 2d 633, 681 N.W.2d 110. If Wis. Stat. § 59.19 were construed as permitting a sitting county supervisor to accept the position of administrative coordinator, upon such acceptance at a minimum Wis. Stat. § 59.10(4) would prohibit the supervisor from continuing to serve in that capacity beyond the end of his or her supervisory term. Had the Legislature intended that result, it would have made an explicit statement to that effect. *Compare* Wis. Stat. § 59.52(9). In light of the limitations and explicit incompatibility provisions contained in Wis. Stat. § 59.10(4), Wis. Stat. § 59.19 cannot reasonably be construed to expressly authorize a county supervisor to serve as administrative coordinator.

²A county supervisor is expressly authorized to **temporarily** accept appointment to the office of county administrator. Wisconsin Stat. § 59.18(1) provides that, in the case of a vacancy of the office of county administrator, the county board “may appoint any member of the board as acting county administrator to serve for a period of 15 days while the board is considering the selection of a county administrator.” Wisconsin Stat. § 59.18(1) expressly prohibits a county supervisor from simultaneously serving permanently as county administrator: “If any member of the board is appointed as [permanent] county administrator, his or her status as a member of the board is thereby terminated[.]”

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CONCLUSION

¶ 9. I therefore conclude that a sitting member of the county board must first resign the office of county supervisor before being appointed to the permanent position of county administrative coordinator under Wis. Stat. § 59.19.

Sincerely,

J.B. VAN HOLLEN
Attorney General

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