

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
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October 17, 2013

Opinion No. 13-77

County Election Commissioner Serving on County Board of Public Utilities

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**QUESTION**

May a member of the Roane County Election Commission also serve as a member of the Roane County Board of Public Utilities?

**OPINION**

No.

**ANALYSIS**

The provisions of Tenn. Code Ann. § 2-1-112 expressly prohibit a county or municipal employee from serving on a county election commission, stating in pertinent part as follows:

(a)(1) Neither an elected official nor an employee of a state, county, municipal or federal governmental body or agency or of an elected official may serve as a member of a county election commission or as a member of a county primary board or as an election official.

The statute does not define the term “employee.” However, according to the opinion request, the Roane County Commission is authorized pursuant to Tenn. Code Ann. § 5-16-103(f)(7)(A) to provide for the compensation of the members of the Roane County Board of Utilities and members currently receive \$100 per month in compensation. This Office has previously opined that members of a county Civil Service Board were “employees” within the meaning of Tenn. Code Ann. § 2-1-112(a)(1), even though they were not full-time, because, pursuant to statutory authority, the county commission provided a salary or compensation for those members. *See* Tenn. Atty. Gen Op. 02-121, at 1-2 (Oct. 30, 2002). Similarly, the compensation authorized by Tenn. Code Ann. § 5-16-103(f)(7)(A) and provided to members of the Roane County Board of Public Utilities is sufficient to make them employees of the county within the meaning of Tenn. Code Ann. § 2-1-112(a)(1), even if they are not full-time. Accordingly, a member of the Roane County Election Commission may not serve as a member of the Roane County Board of Public Utilities.

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