

(3)

While a credit union may not make loans to its members except for "provident or productive purposes," there is no relevant statutory limitation on the mechanics of the loan. If, as a matter of convenience to its members, a credit union desires to utilize drafts in unstated amounts, but limited by imprint thereon to a stated maximum, which the members may at their convenience complete and endorse as payable to a stated party, the credit union is free to do so.

(4)

Included in the enumerated powers of a credit union is the power to invest in a housing cooperative. Act 285, Public Acts of 1925, § 4a, added by Act 280, 1967; M.S.A. 1968 Cum. Supp. § 23.484(1); M.C.L.A. § 490.4a. Such investments are not statutorily limited to housing that is to be occupied solely by members of the credit union. Indeed, such a limitation would hardly be feasible if the housing cooperative is to be an economically successful venture. It is my opinion, therefore, that a credit union has the authority to invest its funds in such a housing cooperative, without regard to whether occupancy would be limited to members of the credit union, but only subject to the stated statutory limitations, viz., that such cooperative be organized by members of the credit union and that it be eligible to receive State or Federal assistance in providing housing.

FRANK J. KELLEY,
Attorney General.

690514.1

PUBLIC OFFICES AND OFFICERS: Incompatibility.

Offices of member of board of education, including intermediate board of education, and member of county board of supervisors.

The office of member of a board of education, including the board of an intermediate school district, and office of member of a county board of supervisors, in which county the school district is located, are incompatible and may not be held simultaneously by the same person.

No. 4671

May 14, 1969.

Hon. William S. Ballenger
State Representative
The Capitol
Lansing, Michigan

You have requested my opinion on the following question:

May the same person simultaneously hold the office of member of a board of education of a school district and the office of member of a county board of supervisors of the same county?

It is the common law of this state that the same person may not occupy two public offices at the same time where one office is subordinate to the

other and subject in some degree to its supervisory power or where the nature of the duties and functions of the two offices are such that from consideration of public policy it is improper for one person to retain both offices. *Attorney General, ex rel. Moreland v. City of Detroit* (1897), 112 Mich 145. *Weza v. Auditor General* (1941), 297 Mich 686.

The public office of member of a board of education of a school district is a statutory office created by the legislature in the appropriate provisions of Act 269, P.A. 1955, as amended, being M.C.L.A. § 340.1 et seq; M.S.A. 1968 Rev. Vol § 15.3001 et seq, as they apply to the various types of school districts authorized by the legislature, including intermediate school districts. It must also be noted that a number of school districts were created by local act of the legislature, but even in such cases the office of member of a local act school district would be a statutory office.

The public office of member of a county board of supervisors is a public office provided for in Article VII, Sec. 7 of the Michigan Constitution of 1963 with the board to have such legislative, administrative and such other powers and duties as provided by law. See Article VII, Sec. 8.

Section 9 of Act 62, P.A. 1933, as amended, being M.C.L.A. § 211.209; M.S.A. 1960 Rev. Vol. § 7.69, imposes a duty upon a board of education of a school district, including intermediate districts, and upon the county board of supervisors to prepare each year a budget containing an itemized statement of its proposed expenditures and estimated revenues covering all of its departments' activities.

The legislature has provided for a county tax allocation board in accordance with the provisions of Act 62, P.A. 1933, as amended, being M.C.L.A. § 211.201 et seq; M.S.A. 1960 Rev. Vol. § 7.61 et seq. Under Section 11 the board is charged with an examination and a review of each budget to approve certain minimum rates for each governmental unit and to allocate the balance of the lawful total among the various governmental units. School districts, including intermediate districts, and the county are governmental units within the purview of Act 62, P.A. 1933, supra.

There is a clear conflict in the representation of more than one local governmental unit before the tax allocation board in the division of balance of the net limitation tax rate between all local units. In the case of the same person occupying the office of member of a board of education of a local school district or an intermediate district and the office of member of a county board of supervisors in the same county, there is a divided loyalty on the part of the same person holding the office of member of a board of education of a school district and member of the county board of supervisors in the same county to further and defend the interests of the respective governmental units in the vital matter of tax allocation. It is abundantly clear that the resulting conflict renders it improper from consideration of public policy for the same person to occupy the two offices. Thus, the same person may not hold both of them at the same time. O.A.G. 1965-66, page 75; O.A.G. 1957-58, Vol II, page 128; O.A.G. 1959-60, Vol. II, page 105.

It is noted that the same rule would apply to the office of member of an intermediate board of education simultaneously serving as a member

of a county board of supervisors in the same county, since the intermediate board of education is also required to file a budget for review and examination by the county tax allocation board and is subject to determination of the tax rate for such governmental unit by the county tax allocation board, in accordance with the provisions of Act 62, P.A. 1933, as amended, *supra*.

Since your question relates to governmental units located within a county whose electors have not voted to fix separate tax limitations for the county and for school districts therein, in accordance with Article IX, Sec. 6 of the Michigan Constitution of 1963, and Sections 5a-5m of Act 62, P.A. 1933, as added by Act 278, P.A. 1964, being M.C.L.A. § 211.105a-§ 211.205m; M.S.A. 1969 Cum. Supp § 7.65(5)-§ 7.65(13), we need not consider here the question of incompatibility between the office of member of a board of education of a school district and the office of member of a county board of supervisors in a county where separate tax limitations have been established by the vote of the people.

FRANK J. KELLEY,
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690516.1

BLUE CROSS-BLUE SHIELD: Blue Cross is not empowered under Act 109, P.A. 1939, being C.L. 1948, §550.501 et. seq. [M.S.A. 1957 Rev. Vol. §24.621 et. seq.], to dispense prescription drugs other than on an inpatient-outpatient basis.

Blue Shield may provide drug services where such drugs are necessarily incident to medical care as a service through participating pharmacies and may also reimburse subscribers for such drugs furnished by nonparticipating pharmacies.

No. 4666

May 16, 1969.

Commissioner Russell E. Van Hooser
Insurance Bureau
Lansing, Michigan

You have requested my opinion with regard to the permissibility of the Michigan Hospital Service, hereinafter referred to as Blue Cross, and the Michigan Medical Services, hereinafter referred to as Blue Shield, to offer a prescription drug benefit program.

Under the proposal, all licensed pharmacies in the State will be permitted to notify Blue Cross-Blue Shield whether they wish to participate in the program. If so, they will agree to accept payment of cost of acquisition of drugs plus a fixed fee as determined by Blue Cross-Blue Shield. Those pharmacies which do not wish to participate will charge the Blue Cross-Blue Shield member in the usual manner. The member in turn will be reimbursed for such costs in an amount not to exceed 75 percent of the usual and customary charges as determined by Blue Cross-Blue Shield, unless the prescription is filled in an area which is not serviced