

# State of Wisconsin \ Government Accountability Board

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**DATE:** June 20, 2016

**TO:** Wisconsin County Clerks  
Wisconsin Municipal Clerks  
City of Milwaukee Election Commission  
Milwaukee County Election Commission

**FROM:** Michael Haas, Election Division Administrator  
David Buerger, Staff Counsel

**SUBJECT:** Elected Officials Serving as Election Inspectors

The Government Accountability Board recently approved a formal opinion concerning the ability of elected officials to serve as election inspectors within the same municipality. The opinion has been redacted of confidential information and can be found on the G.A.B's website at:

<http://www.gab.wi.gov/about/opinions/gab/2016-gab-01>

It is the opinion of the Board that with the exception of the municipal clerk, elected officials may not generally serve as election inspectors within the same municipality. Under the compatibility of offices doctrine, the general rule is that an individual may not hold two public offices or an office and a position within the same unit of government where one post is superior to the other. *Otradovec v. City of Green Bay*, 118, Wis. 2d 293 (Ct. App. 1984). In this case, the court found that a city council member could not also serve as a full-time employee of the city. However, [Wis. Stat. § 66.0501\(4\)](#) specifically provides that certain local part-time positions are compatible with holding elective office. Election inspector positions are not included in this list of part-time positions, which suggests that these positions are not compatible.

As the Board previously determined in 2015, election inspectors are further prohibited from serving where a candidate's success or failure may affect the election inspector financially. Commonly this situation arises when an election inspector is the spouse or immediate family member of a candidate on the ballot. It is the Board's opinion that the Ethics Code for Local Public Officials prohibits an election inspector from serving in such a situation, see: <http://www.gab.wi.gov/node/3551>

Please keep in mind that incompatible offices are determined by the courts and violations of the Ethics Code for Local Public Officials are prosecuted by local district attorneys. Therefore, this opinion is advisory and not binding on the courts or on district attorneys. Local municipal clerks are advised to consult with their municipal attorney before proceeding based on this opinion.

If you have any questions regarding this guidance, please contact the G.A.B. Help Desk at [gabhelpdesk@wi.gov](mailto:gabhelpdesk@wi.gov) or (608) 261-2028.