

ARKANSAS ETHICS COMMISSION

910 West Second Street, Suite 100
Post Office Box 1917
Little Rock, Arkansas 72203-1917
(501) 324-9600 Fax (501) 324-9606
Toll Free (800) 422-7773

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ADVISORY OPINION NO. 2004-EC-005 Issued July 16, 2004

The Arkansas Ethics Commission has received a written advisory opinion request from Virginia "Ginna" Watson of Hot Springs Village, Arkansas. The question asked is whether or not it would be a conflict of interest for Ms. Watson to continue to serve on the Board of Directors of Hot Springs Village Property Owners Association if elected to the Arkansas House of Representatives.

A review of the statutes under the Ethics Commission's jurisdiction shows that there is no statute which expressly prohibits a member of the legislature from also serving on a board of directors of an entity such as a property owners association. It is noted, however, that Ark. Code Ann. § 21-8-803 requires the reporting of potential conflicts by a legislator who is required to take action in the discharge of his or her official duties that may affect his or her financial interest or cause financial benefit or detriment to him.¹

It is apparent from a reading of this particular statute that even a potential conflict which may cause financial benefit to the legislator does not prevent the legislator from voting on the matter. The statute merely requires disclosure of the potential conflict if it was not readily apparent from the statement of financial interest filed by the legislator.

¹ Ark. Code Ann. § 21-8-803 states:

(a) A legislator who is required to take an action in the discharge of his or her official duties that may affect his or her financial interest or cause financial benefit or detriment to him, or a business in which he or she is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall:

(1) Prepare a written statement describing the matter requiring action and stating the potential conflict; and

(2)(A) Deliver a copy of the statement to the appropriate official to be filed with the statement of financial interest.

(B) The copy of the statement may be delivered in person by the public official, by mail, or by a person authorized by the public official to deliver the copy.

(b) The obligation to report a potential conflict of interest under this section arises as soon as the legislator is aware of the conflict.

(c) If the statement of financial interest filed by the legislator makes the conflict readily apparent, then no report need be filed.

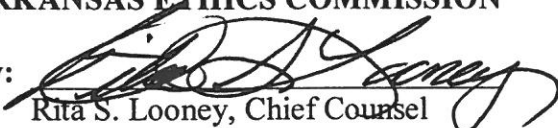
The Commission is not aware of a self-imposed rule of the Arkansas House of Representatives which would prohibit such dual service and/or prohibit voting on any issue directly affecting the local entity. If elected, Ms Watson may wish to take steps to verify that there is no such self-imposed rule.

In accordance with the foregoing, it is the opinion of the Commission that, if elected to the Arkansas House of Representatives, Ms. Watson's service on the Board of Directors of Hot Springs Village would not present a prohibited conflict of interest by virtue of statutes under its jurisdiction.

This advisory opinion is issued by the Commission pursuant to Ark. Code Ann. § 7-6-217(g)(2).

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By:


Rita S. Looney, Chief Counsel