

## ARKANSAS ETHICS COMMISSION

### ADVISORY OPINION 96-EC-002

#### ISSUE PRESENTED

May 20, 1996

*Can a corporation or company provide a paid leave of absence to an employee, who is elected as a State Representative, while the employee is serving in the General Assembly during its regular Session, special sessions or committee meetings.*

#### SUMMARY OF FACTS

An employee for a large employer in South Arkansas is running for State Representative. If elected, he and his employer have arranged for the employee to take a paid leave of absence and keep open his job when the session ends. Neither the employer nor the employee wish to jeopardize the employee's ability to serve as representative and do not intend the paid leave to be used as compensation for lobbying, nor does the employee intend to lobby on behalf of his employer or any of the issues in which the employer has a potential interest. The paid leave is in regard to the employee's standing with the company.

#### DECISION

The Arkansas Ethics Commission has limited jurisdiction over matters of potential conflicts of interest for members of the General Assembly. Legislators are public officials and, as such, must guarantee that their position of trust is not compromised by outside influences. Ark. Code Ann. §21-8-304 prohibits public officials and state employees from using their position to gain financial favors, privileges or exemptions to which they otherwise would not be entitled.

Two other relevant statutes are Ark. Code Ann. §§21-8-802 and 803. These laws detail prohibited activities which legislators must avoid during a session. Ark. Code Ann. §21-8-802(e) prohibits any member of the General Assembly from receiving income, other than his salary as a member of the from the General Assembly, for the purpose of lobbying other members of the Assembly. If elected, any legislator must insure that she or he does not lobby on behalf of a present employer. Since the legislator would be receiving compensation from an outside source, he would have to avoid actions which could be construed as unduly soliciting or influencing other General Assembly members on issues which relate directly to his employer's interests.

Ark. Code Ann. §21-8-803 requires legislators to make substantial financial disclosure if any legislator votes or acts in any way on matters which potentially might affect his or her business interests. This would appear to apply to any legislator who is receiving paid leave during a session.

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The above laws do not appear to prohibit a legislator from receiving paid leave from an employer, provided the legislator does not lobby or attempt to influence other members of the General Assembly on matters which involve his employment. This would constitute lobbying in violation of Ark. Code Ann. §21-8-802(e).

Finally, any legislator who receives income before, during or after any General Assembly Session is required to disclose the money on his Statement of Financial Interest.

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