

ARKANSAS ETHICS COMMISSION

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ADVISORY OPINION NO. 99-EC-010 Issued August 27, 1999

ISSUE:

The Arkansas Ethics Commission is issuing this advisory opinion on its own initiative to clarify whether suburban improvement district commissioners are required to file an annual statement of financial interest.

BRIEF ANSWER:

Members of the board of commissioners of all suburban improvement districts are required to file an annual statement of financial interest.

DISCUSSION:

Suburban improvement districts are formed for many purposes, including constructing and maintaining waterworks, sewers, streets, and sidewalks. Ark. Code Ann. § 14-92-205(a). Suburban improvement districts have numerous powers, including the power to levy taxes, Ark. Code Ann. § 14-92-228, the power to issue bonds, Ark. Code Ann. § 14-92-234, and the power of eminent domain, Ark. Code Ann. § 14-92-222.

The establishment of suburban improvement districts is governed by Ark. Code Ann. § 14-92-201, *et seq.* Pursuant thereto, each owner of realty within the boundaries of the proposed district must be notified of the intent to form the proposed district. Ark. Code Ann. § 14-92-204(a)(1)(A). Upon the filing of the petition to form a suburban improvement district, a public hearing is held to elect seven (7) commissioners of the proposed district, with each owner of realty given one vote. *See* Ark. Code Ann. § 14-92-204(b)(4)(A)(ii). Each of the commissioners is elected by position. Ark. Code Ann. § 14-92-204(b)(5)(A)(i). Following the election, the petition and the names of the commissioners elected are transmitted to the county court for the court to name as commissioners the individuals who were elected at the public hearing. Ark. Code Ann. § 14-92-205(a).

The filing of statements of financial interest is governed by Ark. Code Ann. § 21-8-701. Pursuant to subsection (a)(1) of that statute, all public officials are required to file a statement of financial interest. "Public official" is defined at Ark. Code Ann. § 21-8-402(16) as any person holding an elective office of any governmental body.

A suburban improvement district is a "governmental body." Ark. Code Ann. § 21-8-402(6) defines "governmental body" as including any board or commission of an "improvement district." Being elected members of a governmental body, commissioners of a suburban improvement district meet the definition of "public official" as contained in Ark. Code Ann. § 21-8-402(16) and are therefore required to file an annual statement of financial interest.

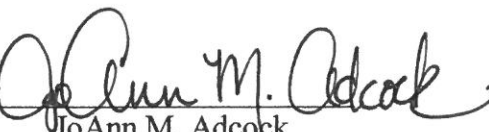
In issuing this opinion, the Commission notes that it has previously addressed this issue on two prior occasions, 92-EC-022 and 93-EC-005. As these opinions reflect, considerable confusion in this area of the law has made it difficult to answer this question definitively.

On September 30, 1993, the Commission issued 93-EC-005 opining that members of the board of commissioners of suburban improvement districts are required to file an annual statement of financial interest. The Commission affirms the conclusion reached in that opinion and offers this opinion to clarify the issue.

The Commission notes that the requirements imposed by this opinion are prospective. Thus, commissioners of suburban improvement districts will be required to file a statement of financial interest covering the 1999 calendar year. That statement of financial interest must be filed on or before January 31, 2000. See Ark. Code Ann. § 21-8-701(c)(2).

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

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By 
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