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STATE OF ALABAMA

SEP 26 1989

89-00445

Honorable Michael M. Breedlove
Member, House of Representatives
119 Dogwood Drive
Jackson, AL 36545

Water and Fire Protection
Authorities - Conflicts of
Interest - Employees,
Employers, Employment - Offices
and Officers - Officers and
Employees

Washington County Water and
Fire Protection Authority may
not employ member of Author-
ity's Board of Directors as
bookkeeper for the Authority.

Questions concerning state
ethics law should be addressed
directly to State Ethics
Commission.

Dear Mr. Breedlove:

This opinion is issued in response to your request for an
opinion from the Attorney General.

QUESTION

May the Washington County Water and Fire
Protection Authority hire a member of the
board of directors as a bookkeeper?

FACTS AND ANALYSIS

In the opinion request you state that the board of directors of the Washington County Water and Fire Protection Authority, which is comprised of yourself, along with Mr. Richmond Chaney and Mrs. Mary Ellen Whigham, approved a motion during a recent board meeting to employ Mrs. Whigham as bookkeeper. Before the board pays Mrs. Whigham for her services, however, they want to know if her employment while she is a member of the board is permissible.

Water and fire protection authorities in this state are established pursuant to Code of Alabama 1975, § 11-81-1, et seq. Our research reveals no provision in these statutes or other laws of this state, with the possible exception of the state ethics law, which would prohibit a member of the board of directors of the Washington County Water and Fire Protection Authority from working as a paid employee of the Authority.

We note, however, that under the provision of Code of Alabama 1975, § 11-88-6, all powers of the authority shall be exercised by the board of directors or pursuant to its authorization. Moreover, § 11-88-7(a)(16) authorizes the authority to "employ, contract with and provide for the compensation of such officers [and] employees . . . as the business of the authority may require and at its option to provide a system of disability pay, retirement compensation and pensions or any of them without regard to any provisions of Sections 41-16-50 through 41-16-63 that might otherwise be applicable."

Given the fact that Mrs. Whigham, as a member of the board, would be in a position to vote on her own compensation, as well as disability pay, retirement compensation and pensions pertaining to her position as the board's paid bookkeeper, it is the opinion of this office that such employment would present a conflict of interest which is contrary to public policy and the common law. See opinion to Mr. Larry Gist, Chairman, Greenhill Water and Fire Protection Authority, under date of January 29, 1986.

It is therefore the opinion of this office that the Authority may not hire as bookkeeper an individual who serves as a member of the Authority's board of directors.

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CONCLUSION

The Washington County Water and Fire Protection Authority may not employ a member of the Authority's Board of Directors as bookkeeper for the Authority.

Questions concerning the state ethics law should be addressed directly to the State Ethics Commission.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN
Attorney General
By:


JEAN WILLIAMS BROWN
Assistant Attorney General

DS/JWB/jho

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