

OFFICE OF THE ATTORNEY GENERAL



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STATE OF ALABAMA

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ALABAMA STATE HOUSE
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Honorable Albert Hall
Member, House of Representatives
P. O. Box 275
Gurley, Alabama 35748

Municipalities - Nepotism -
Employees, Employers,
Employment - Municipal
Employees

Unless prohibited by local
law or personnel rule, there
is no prohibition against the
hiring of an applicant by a
municipal fire department
where the husband of the aunt
of the spouse of the
applicant is employed by the
fire department.

Dear Representative Hall:

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

QUESTION

Is the hiring of an applicant by a
municipal fire department in violation of
Section 11-44-103 if the husband of the
aunt of the spouse of the applicant is
already employed by the department?

FACTS, LAW AND ANALYSIS

Code of Alabama 1975, § 11-44-103 prohibits any person
from becoming an officer or employee of a municipality at a

salary in excess of \$75 per month if there is already a commissioner, officer, or employee of the municipality who is related by consanguinity or affinity in the third degree or nearer by the civil law.

Section 11-44-103 is part of those laws applicable only to municipalities in the state with a commission form of government. The commission form of government as provided for in Title 11, Chapter 44, Code of Alabama 1975, is no longer used in Alabama. Therefore, there is no need to consider § 11-44-103.

The state nepotism law, found at Code of Alabama 1975, § 41-1-5, applies only to state officers. Opinion of the Attorney General to Honorable Jackie O. Isom, Hamilton, dated May 3, 1990, A.G. No. 90-00263.

There is no general nepotism law for municipalities prohibiting relatives of municipal officers or employees from holding positions in the municipality. There may be local civil service statutes, other local laws, or established personnel rules which prescribe conditions under which relatives may not be employed.

CONCLUSION

Unless prohibited by local law or personnel rule, there is no prohibition against the hiring of an applicant by a municipal fire department where the husband of the aunt of the spouse of the applicant is employed by the fire department.

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

Sincerely,

JIMMY EVANS
Attorney General

By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division