

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/17/09 H3/26/09

A Bill

HOUSE BILL 1968

5 By: Representatives Webb, Dismang, Greenberg
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For An Act To Be Entitled

9 AN ACT TO PROHIBIT CONFLICT OF INTEREST VOTING BY
10 MEMBERS OF STATE BOARDS AND COMMISSIONS; TO AMEND
11 VARIOUS PROVISIONS OF ARKANSAS CODE TITLES 7 AND
12 21 PERTAINING TO CONFLICTS OF INTEREST FOR PUBLIC
13 SERVANTS; TO AMEND A PORTION OF ARKANSAS CODE
14 THAT RESULTED FROM INITIATED ACT 1 OF 1990; AND
15 FOR OTHER PURPOSES.
16

Subtitle

17 THE CONFLICT OF INTEREST PROHIBITION ACT
18 OF 2009.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. DO NOT CODIFY. Title. This act shall be known and may be
25 cited as the "Conflict of Interest Prohibition Act of 2009".
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27 SECTION 2. DO NOT CODIFY. Legislative intent. The General Assembly
28 finds and declares that:

29 (1) Effective citizen participation in government is an
30 essential element of a working democracy and effective citizen participation
31 should include assurances that members of state boards and commissions and
32 board members of entities receiving state funds, before whom citizens appear,
33 will be impartial and untainted by personal or family conflicts of interest;

34 (2) It is the public policy of the State of Arkansas that
35 members of state boards and commissions and board members of entities
36 receiving state funds shall work for the benefit of the people of Arkansas



1 and not to advance the pecuniary interests of themselves, their employers, or
 2 their families;

3 (3) Under existing state law, members of state boards and
 4 commissions and board members of entities receiving state funds are permitted
 5 to vote on and participate in official decisions that their close relatives,
 6 their employers, their prospective employers, or other organizations with
 7 which the members are associated have a pecuniary interest.

8 (4) Unlike violations of other ethics and conflicts of interest
 9 provisions of state law that are treated as misdemeanors or felonies and
 10 subject the violator to fines, the only penalties currently attached to
 11 violations of existing conflict of interest provisions relating to state
 12 board or commission members and board members of entities receiving state
 13 funds are public cautions, reprimands, and removal from office; and

14 (5) These weaknesses and omissions in existing laws create
 15 opportunities for conflicts of interest corrupting the operation of state
 16 government and to the detriment of the people of Arkansas.

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 18 SECTION 3. Arkansas Code § 7-6-218(b)(4)(B)(i), resulting from
 19 Initiated Act 1 of 1990, concerning possible actions of the Arkansas Ethics
 20 Commission if there is a violation of campaign practices, is amended to read
 21 as follows:

22 (B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-
 23 409, 21-8-403, ~~and~~ 21-8-903, and 21-8-1004, impose a fine of not less than
 24 fifty dollars (\$50.00) nor more than two thousand dollars (\$2,000) for
 25 negligent or intentional violation of this subchapter or § 21-8-301 et seq.,
 26 § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701 et seq., § 21-8-801 et
 27 seq., ~~and~~ § 21-8-901 et seq., and 21-8-1001 et seq.

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 29 SECTION 4. Arkansas Code § 21-8-1001 is amended to read as follows:
 30 21-8-1001. Conflicts of interest.

31 (a)(1) No member of a state board or commission or board member of an
 32 entity receiving state funds shall participate in, vote on, influence, or
 33 attempt to influence an official decision if ~~the member~~ any of the following
 34 persons or organizations has a pecuniary interest in the matter under
 35 consideration by the board, commission, or entity:

36 (A) The member;

1 (B) A person in the member's family, as defined in §
2 21-8-402(4);

3 (C) A person from whom or an organization from
4 which the member has received remuneration, other than as interest from the
5 member's interest-bearing account, in an amount greater than one thousand
6 dollars (\$1,000) in the previous calendar year; or

7 (D) A person or organization with which the member
8 is negotiating or has a current arrangement concerning prospective
9 employment.

10 (2) Notwithstanding subdivision (a)(1) of this section, A a
11 member of a state board or commission or board member of an entity receiving
12 state funds may participate in, vote on, influence, or attempt to influence
13 an official decision if the only pecuniary interest that may accrue to the
14 member a person or organization listed in subdivisions (a)(1)(A)-(D) of this
15 section is incidental to his or her position or accrues to him or her as a
16 member of a profession, occupation, or large class to no greater extent than
17 the pecuniary interest could reasonably be foreseen to accrue to all other
18 members of the profession, occupation, or large class.

19 (b) No member of a state board or commission or board member of an
20 entity receiving state funds shall participate in any discussion or vote on a
21 rule or regulation matter that exclusively benefits the member a person or
22 organization listed in subdivision (a)(1) of this section.

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24 SECTION 5. Arkansas Code § 21-8-1004 is amended to read as follows:

25 21-8-1004. Penalties – Investigation by Arkansas Ethics Commission.

26 (a) In addition to any penalty contained in any other provision of
27 law, any member of a state board or commission or board member of an entity
28 receiving state funds who knowingly and intentionally violates any of the
29 provisions of this subchapter is guilty of a Class A misdemeanor and may also
30 be removed from office by the appointing authority.

31 (b) The Arkansas Ethics Commission, under the power and authority
32 granted to it by §§ 7-6-217 and 7-6-218, may investigate complaints alleging
33 a violation of this subchapter and may make recommendations to the appointing
34 authority.

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36 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that the existing conflicts of
2 interest provisions of Arkansas law are inadequate to protect the public from
3 the possibility that members of state boards and commissions and board
4 members of entities receiving state funds will act in furtherance of their
5 private pecuniary interests rather than the public interest; and that there
6 is a discrepancy in existing law in that the penalties to which state board
7 and commission members and members of public entities receiving state funds
8 are subject are not the same penalties as those to which other violators of
9 ethical and conflicts of interest laws are subject. Therefore, an emergency
10 is declared to exist, and this act being immediately necessary for the
11 preservation of the public peace, health, and safety shall become effective
12 on:

13 (1) The date of its approval by the Governor;

14 (2) If the bill is neither approved nor vetoed by the Governor,
15 the expiration of the period of time during which the Governor may veto the
16 bill; or

17 (3) If the bill is vetoed by the Governor and the veto is
18 overridden, the date the last house overrides the veto.

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20 /s/ Webb
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