

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

*As Engrossed: S3/24/99*

# A Bill

SENATE BILL 883

5 By: Senator Argue  
6  
7

## For An Act To Be Entitled

9 "AN ACT TO PROHIBIT CONFLICT OF INTEREST VOTING BY  
10 STATE BOARD AND COMMISSION MEMBERS; TO AMEND VARIOUS  
11 SECTIONS OF ARKANSAS CODE TITLES 7 AND 21 PERTAINING  
12 TO CONFLICTS OF INTEREST FOR PUBLIC SERVANTS; TO  
13 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES."

## Subtitle

15 "THE CONFLICT OF INTEREST PROHIBITION ACT  
16 OF 1999."  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Short Title. This act shall be known and may be cited as  
23 the "Conflict of Interest Prohibition Act of 1999".  
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25 SECTION 2. Legislative declarations. The General Assembly of the State  
26 of Arkansas finds and declares that:

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

32 (2) It is the public policy of the State of Arkansas that members of  
33 state boards and commissions shall work for the benefit of the people of  
34 Arkansas, and not to advance the pecuniary interests of themselves, their  
35 employers, or their families;

36 (3) Under existing state law, members of state boards and commissions

1 are permitted to vote on and participate in official decisions in which their  
 2 employers, their prospective employers, or other organizations with which the  
 3 members are associated have a pecuniary interest; and are permitted to vote on  
 4 and participate in official decisions in which their close relatives have a  
 5 pecuniary interest. Members of state boards and commissions are not required  
 6 to disclose to other board and commission members or to the public the  
 7 existence of their close relatives' employment and ownership positions in  
 8 businesses regulated by the boards and commissions;

9 (4) State law is unclear about what penalties, if any, attach to  
 10 violations of existing conflict of interest provisions relating to state board  
 11 and commission members; and

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

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 16 SECTION 3. Arkansas Code § 7-6-218(a), regarding citizens complaints  
 17 under the campaign finance laws filed with the Ethics Commission, is amended  
 18 to read as follows:

19 "(a) Any citizen wishing to file a complaint against a person covered  
 20 by this subchapter or by subchapters ~~4-9~~ 3-10 of title 21, chapter 8, as  
 21 amended, for an alleged violation of such subchapters may file a complaint  
 22 with the Arkansas Ethics Commission."  
 23

24 SECTION 4. Arkansas Code § 7-6-218(b)(4), regarding citizens complaints  
 25 under the campaign finance laws filed with the Ethics Commission, is amended  
 26 to read as follows:

27 "(4) If the commission finds a violation of this subchapter or of  
 28 subchapters ~~4-9~~ 4-10 of title 21, chapter 8, as amended, then the commission  
 29 shall do one (1) or more of the following, unless good cause be shown for the  
 30 violation:

31 (A) Issue a public letter of caution or warning or  
 32 reprimand;

33 (B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-  
 34 409, 21-8-403, ~~and~~ 21-8-903, and 21-8-1004, impose a fine of not less than  
 35 twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000) for  
 36 negligent or intentional violation of this subchapter, or of subchapters ~~4-9~~

1 3-10 of title 21, chapter 8, as amended.

2 (ii) The commission shall adopt rules governing the  
3 imposition of such fines in accordance with the provisions of the Arkansas  
4 Administrative Procedure Act, § 25-15-201 et seq.

5 (iii) All moneys received by the commission in  
6 payment of fines shall be deposited in the State Treasury as general revenues;  
7 or

8 (C) Report its finding, along with such information and  
9 documents as it deems appropriate, and make recommendations to the proper law  
10 enforcement authorities. When exercising the authority provided in this  
11 subdivision (b)(4)(C), the commission is not required to make a finding of a  
12 violation of the laws under its jurisdiction."

13  
14 SECTION 5. Arkansas Code § 21-8-701(9), regarding the contents of the  
15 statement of financial interest required to be filed by public officials, is  
16 amended as follows:

17 "~~(9)~~ (10) Any public servant who is ~~employed by any business~~  
18 ~~which is under direct regulation or subject to direct control by the~~  
19 ~~governmental body which he serves shall set out such employment and the fact~~  
20 ~~that the business is regulated by or subject to control of the governmental~~  
21 ~~body on the statement of financial interest~~ associated in the following ways  
22 with any business which is under direct regulation or subject to direct  
23 control by the governmental body which the public servant serves, shall set  
24 out such association and the fact that the business is regulated by or subject  
25 to control of the governmental body on the statement of financial interest:

26 (A) The public servant is employed by the business; or

27 (B) The public servant is an officer, director, owner,  
28 trustee, partner, or stockholder owning more than ten percent (10%) of the  
29 stock of the business; or

30 (C) A person in the public servant's family as defined in §  
31 21-8-402(4) of this chapter holds a position in the business described in  
32 subdivisions (d)(10)(A) and (d)(10)(B) of this section; and"

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34 SECTION 6. Arkansas Code § 21-8-1001, regarding conflicts of interest  
35 for members of state boards and commissions, is amended to read as follows:

36 "21-8-1001. Conflicts of interest.

1           ~~(a)(1) No member of a state board or commission shall participate in,~~  
2 ~~vote on, influence, or attempt to influence an official decision if the member~~  
3 ~~has a pecuniary interest in the matter under consideration by the board or~~  
4 ~~commission.~~

5           ~~(2) A member of a state board or commission may participate in,~~  
6 ~~vote on, influence, or attempt to influence an official decision if the only~~  
7 ~~pecuniary interest that may accrue to the member is incidental to his or her~~  
8 ~~position or accrues to him or her as a member of a profession, occupation, or~~  
9 ~~large class to no greater extent than the pecuniary interest could reasonably~~  
10 ~~be foreseen to accrue to all other members of the profession, occupation, or~~  
11 ~~large class.~~

12           ~~(b) No member of a state board or commission shall participate in any~~  
13 ~~discussion or vote on a rule or regulation that exclusively benefits the~~  
14 ~~member.~~

15           (a) No member of a state board or commission shall participate in, vote  
16 on, influence, or attempt to influence an official decision if any of the  
17 following persons or organizations has a pecuniary interest, or a reasonably  
18 foreseeable substantial benefit, known to the member in the matter under  
19 consideration by the board or commission:

20                   (1) the member;

21                   (2) a person in the member's family, as defined in Arkansas Code §  
22 21-8-402(4);

23                   (3) any person from whom or any organization from which the member  
24 has received remuneration greater than one thousand dollars (\$1,0000) in the  
25 previous calendar year; or

26                   (4) any person or organization with which the member is  
27 negotiating or has any arrangement concerning prospective employment.

28           (b) No member of a state board or commission shall participate in any  
29 discussion or vote on a matter that exclusively benefits a person or  
30 organization listed in subsection (a) of this section.

31           (c) For purposes of this section, "pecuniary interest or reasonably  
32 foreseeable substantial benefit" shall include detriment to a business  
33 competitor of the member, the member's family, or organization with which the  
34 member is associated as described in subdivisions (a)(3) or (a)(4) of this  
35 section.

36           (d) This section shall not apply if the pecuniary interest or benefit

1 accruing to a person stated in subsection (a) if this section accrues to him  
 2 or her as a member of a profession, occupation, or large class of persons to  
 3 no greater extent than the pecuniary interest or benefit could reasonably be  
 4 foreseen to accrue to any other member of the profession, occupation, or large  
 5 class."

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 7 SECTION 7. Arkansas Code § 21-8-1004 is amended to read as follows:

8 "21-8-1004. Penalties - Investigation by Arkansas Ethics Commission.

9 (a) ~~In addition to any penalty contained in any other provision of law,~~  
 10 ~~any~~ Any member of a state board or commission who knowingly and intentionally  
 11 violates any of the provisions of this subchapter shall be deemed guilty of a  
 12 Class A misdemeanor and may also be removed from office by the appointing  
 13 authority.

14 (b) ~~The Arkansas Ethics Commission may investigate complaints alleging~~  
 15 ~~a violation~~ is authorized to investigate any complaints or allegations of  
 16 violations of this subchapter and may make recommendations to the appointing  
 17 authority. In the investigation of such matters the commission is  
 18 specifically given all authority and power as granted to it under the  
 19 provisions of Arkansas Code §§ 7-6-217 and 7-6-218."

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 21 SECTION 8. All provisions of this act of a general and permanent nature  
 22 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
 23 Revision Commission shall incorporate the same in the Code.

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 25 SECTION 9. If any provision of this act or the application thereof to  
 26 any person or circumstance is held invalid, such invalidity shall not affect  
 27 other provisions or applications of the act which can be given effect without  
 28 the invalid provision or application, and to this end the provisions of this  
 29 act are declared to be severable.

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 31 SECTION 10. All laws and parts of laws in conflict with this act are  
 32 hereby repealed.

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 34 SECTION 11. EMERGENCY CLAUSE. It is hereby found and determined by the  
 35 Eighty-second General Assembly that the existing conflicts of interest  
 36 provisions of Arkansas law are inadequate to protect the public from the

1 possibility that members of state boards and commissions will act in  
2 furtherance of their private pecuniary interests rather than the public  
3 interest, and that existing law is ambiguous regarding the penalties to which  
4 state board and commission members are subject if they violate conflict of  
5 interest laws. It is essential that existing conflict of interest laws be  
6 clarified and strengthened, and the immediate enforcement of this act is  
7 necessary to accomplish these purposes. Therefore, an emergency is declared  
8 to exist and this act being immediately necessary for the preservation of the  
9 public peace, health and safety shall become effective on the date of its  
10 approval by the Governor. If the bill is neither approved nor vetoed by the  
11 Governor, it shall become effective on the expiration of the period of time  
12 during which the Governor may veto the bill. If the bill is vetoed by the  
13 Governor and the veto is overridden, it shall become effective on the date the  
14 last house overrides the veto.

15 /s/ Argue  
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