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February 5, 2025

## **ADVISORY OPINION NO. 2025-01**

Ken Hamilton  
Volunteer Firefighter

### Public Official / Conflict of Interest

A member of a town council who serves as an uncompensated, volunteer firefighter may vote on, attempt to influence, or otherwise participate in legislation before the Council affecting the volunteer fire department provided neither he, his family members, nor a business with which he is associated would uniquely benefit from his vote.

Dear Mr. Hamilton:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

### **FACTS**

Mr. Hamilton currently serves as an uncompensated, volunteer firefighter for the Town of Cottonwood. Mr. Hamilton is considering running for a position on the Town Council of Cottonwood but has concerns about whether there would be a conflict of interest that would limit his ability to participate in matters involving the volunteer fire department should he be elected.

### **QUESTION PRESENTED**

May a member of a town council who serves as an uncompensated, volunteer firefighter vote on, attempt to influence, or otherwise participate in matters before the council affecting the volunteer fire department?

### ANALYSIS

The Ethics Commission has recognized that public entities generally are not considered “businesses” as contemplated in the ethics law, specifically as it relates to the application of Ala. Code § 36-25-5.<sup>1</sup> In Advisory Opinion 2020-01, the Commission held that a member of a City Council could vote on, attempt to influence, or otherwise participate in matters affecting her public employer, the University of North Alabama, provided the matter did not uniquely affect the council member, a member of her family, or a business with which she is associated.

The Cottonwood Volunteer Fire Department is not a business with which Mr. Hamilton is associated because it is a public entity<sup>2</sup> and, further, because Mr. Hamilton, as an uncompensated volunteer, is not an “officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business” of the volunteer fire department.<sup>3</sup>


The Commission addressed a similar question in Advisory Opinion 97-76 where it found that the mayor and members of a town council, who were volunteer firefighters, could vote on Fire Department matters provided the mayor and members of the town council were not affected in a manner differently than other members of the same class.

### CONCLUSION

A member of a town council who serves as an uncompensated, volunteer firefighter may vote on, attempt to influence, or otherwise participate in legislation before the Council affecting the volunteer fire department provided neither he, his family members, nor a business with which he is associated would uniquely benefit from his vote.

### AUTHORITY

By 3/0 vote of the Alabama Ethics Commission on February 5, 2025.

  
Chair  
Alabama Ethics Commission

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<sup>1</sup> See Ethics Advisory Opinion Nos. 2015-15, 2016-37, and 2020-01.

<sup>2</sup> See Ala. Code § 45-35-140.01.

<sup>3</sup> Ala. Code § 36-25-1(2).