

STATE OF ALABAMA
ETHICS COMMISSION



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ADVISORY OPINION NO. 97-05

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Conflict Of Interests/City Council
Member Serving As Referee For
City Parks And Recreation Board
Winter Basketball League.

A member of the Fayette, Alabama City Council may serve as a referee for the City of Fayette's Parks and Recreation Board Winter Basketball League and receive compensation in the amount of \$15.00 per game; provided, he did not use his position as a member of the City Council to obtain the employment; that he did not use confidential information obtained in the course of his service on the City Council in assisting him in obtaining the employment; that his future vote on appropriations to the Parks and Recreation Board not be contingent on his continued service as a referee; and further, based on the fact that he had served as a referee prior to his election as a City Council member, and did not use his position to obtain the employment.

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Dear Mr. Lawrence:

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.

QUESTION PRESENTED

Does the Alabama Ethics Law prohibit a City Councilman from being hired and compensated by the Parks & Recreation Board for officiating at some of its winter league basketball games?

FACTS AND ANALYSIS

The City of Fayette's Parks and Recreation Board has a Winter Basketball League Program. The Board hires individuals to referee these basketball games, and the individuals are paid \$15.00 per game for doing this. The Board does not have a formal procedure for hiring referees. It is done usually by word of mouth. A newly elected member of the City Council of the City of Fayette has in the past been hired by the Board to referee some of its basketball games. Over the course of the season, he would referee between ten and fifteen games. The members of the Parks and Recreation Board are appointed by the City Council. Also, almost all of the Board's funding comes from the City of Fayette in the form of an appropriation.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(25) states:

"(25) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2."

Section 36-25-1(8) states:

"(8) CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official

responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

Section 36-25-5(a) states:

"(a) No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law. Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-9(c) states:

"(c) No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest."

Section 36-25-8 states:

"No public official, public employee, former public official or former public employee, for a period consistent with the statute of limitations as contained in this chapter, shall use or disclose confidential information gained in the course of or by reason of his or her position or employment in any way that could result in financial gain other than his or her regular salary as such public official or public employee for himself or herself, a family member of the public employee or family member of the public official, or for any other person or business."

Based on the facts as presented and the above law, a member of the City of Fayette City Council may serve for compensation as a referee in the City of Fayette's Parks and Recreation Board's Winter Basketball League Program; provided, he did not use his position as a member of the Council to obtain the employment as a referee; that he did not use any confidential information obtained in the course of his employment as a member of the City Council to obtain the employment; that his future vote on appropriations to the Parks and Recreation Board not be contingent on his continued service as a referee; and where he has previously served as a referee

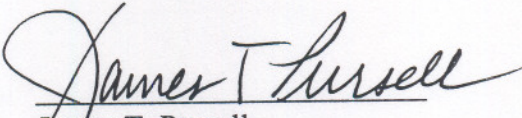
for the basketball program prior to his election as City Council member.

CONCLUSION

A member of the Fayette, Alabama City Council may serve as a referee for the City of Fayette's Parks and Recreation Board Winter Basketball League and receive compensation in the amount of \$15.00 per game; provided, he did not use his position as a member of the City Council to obtain the employment; that he did not use confidential information obtained in the course of his service on the City Council in assisting him in obtaining the employment; that his future vote on appropriations to the Parks and Recreation Board not be contingent on his continued service as a referee; and further, based on the fact that he had served as a referee prior to his election as a City Council member, and did not use his position to obtain the employment.

AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on January 8, 1997.


James T. Pursell
Chair
Alabama Ethics Commission