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THE JOINT LEGISLATIVE ETHICS COMMITTEE

Advisory Opinion 97-002
May 13, 1997

Syllabus by the Committee:

(1) Pursuant to R.C. 2921.42(A)(2), a member of the General Assembly is prohibited from authorizing or employing the authority of his or her office to secure the investment of public funds in any bond he or she, or member of his or her family has an interest; and

(2) A member of the General Assembly is not prohibited from purchasing bonds issued by a state university or college.

Jurisdiction and Question Presented

Pursuant to sections 101.34 and 102.08 of the Revised Code that direct the Joint Legislative Ethics Committee to act as an advisory body to the members and employees of the General Assembly on questions relating to ethics, conflicts of interest, and financial disclosure, the Joint Legislative Ethics Committee advises the members and employees of the General Assembly on the following question: Can a member of the General Assembly purchase bonds issued by a state university or college?

Background

In the state of Ohio, obligations, which include bonds and notes, can be issued by a state university or college to pay for the acquisition and maintenance of housing and dining facilities

(R.C. 3345.07 and R.C. 3347.04) and for auxiliary facilities (R.C. 3345.11).¹ Pursuant to R.C. 3345.12(B), the issuance of these obligations is authorized by resolution of the board of trustees of the particular state university or college. Furthermore, the payment of the bond service charges (payment of the bonds at maturity) is funded with specific revenues slated for this purpose by the state university or college; the payments do not come from any moneys raised by taxation and state appropriations. R.C. 3345.12(C).

Generally, these bonds are sold/brokered by an underwriting company and are available to the general public.

Consideration of the Issues

R.C. 2921.42

Division (A) of Section 2921.42 of the Revised Code provides in pertinent part:

(A) No public official shall knowingly do any of the following:

* * *

(2) Authorize, or employ the authority or influence of his office to secure the investment of public funds in any share, bond, mortgage, or other security, with respect to which he, a member of his family, or any of his business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees;

A member of the General Assembly is a *public official* as that term is defined in R.C. 2921.01(A) and used in Section 2921.42 of the Revised Code. Additionally, a member who

¹ The Committee would note that the Ohio Public Facilities Commission also has the authority to issue bonds on behalf of state institutions of higher education for capital improvements. The procedure for issuance and payment of those obligations differs from those issued directly by the state college or university. The member has requested an opinion only with respect to those bonds issued directly by the college or university; therefore, this opinion shall not address bonds issued by the Ohio Public Facilities Commission.

purchases a bond clearly has an *interest* in that bond. Pursuant to R.C. 2921.42(A)(2), a member of the General Assembly is *prohibited from authorizing* or employing the authority of his or her office to secure *the investment of public funds in any bond he or she*, or member of his or her family *has an interest*. As noted above, the issuance of these bonds is authorized exclusively by the board of trustees for each university or college and the payment of the bonds is funded directly by the individual university or college. Since the authority rests completely with the individual university or college, the member is not authorizing the investment of public funds in any share, bond, mortgage, or other security with respect to these bonds and therefore the prohibition in R.C. 2921.42(A)(2) is not applicable. Accordingly, a member of the General Assembly is not prohibited from purchasing bonds issued by a state university or college.

This written opinion is based on the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code and does not purport to interpret other laws or rules.

Conclusion

Accordingly, the Committee finds and the members and employees of the General Assembly are so advised that (1) Pursuant to R.C. 2921.42(A)(2), a member of the General Assembly is prohibited from authorizing or employing the authority of his or her office to secure the investment of public funds in any bond he or she, or member of his or her family has an interest; and (2) A member of the General Assembly is not prohibited from purchasing bonds issued by a state university or college.



William G. Batchelder, Chairman
Joint Legislative Ethics Committee