



Arkansas
Secretary
Of State

The Arkansas Register



Volume XXIV, Number 8

February 2001

Corporate Records - Elections - Capitol Building and Grounds

State Capitol - Little Rock, Arkansas 72201-1094 - 800.482.1127

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**Secretary of State
State Capitol, Room 026
Little Rock, AR 72201-1094**

Editor **Jon Davidson**

Published by
Secretary of State

The *Arkansas Register* is an official publication of the State of Arkansas. It contains administrative rules and regulations adopted by state agencies, boards and commissions pursuant to Act 434 of 1967, as amended. The *Arkansas Register* also includes Attorney General opinions, notice of legislative audit reports and insurance orders. The subscription rate is \$40 per year or \$3.50 a copy, distributed monthly, postpaid within the United States.

ATTORNEY GENERAL OPINIONS

Opinion No.: 2000-010

Shane Broadway
State Representative

RE: What liability does the city assume if it reinstates a volunteer fireman who had previously tested positive for drug use and said fireman subsequently responds to an emergency call in his private vehicle and has a traffic accident? **RESPONSE:** Under state law, municipalities are immune from tort liability except to the extent of their insurance coverage. ACA 21-9-301. The “combined maximum liability of local government employees, volunteers, and the local government employer in any action involving the use of a motor vehicle within the scope of their employment shall be the minimum amounts prescribed in the Motor Vehicle Responsibility Act unless the political subdivision” carries insurance or self-insures in a higher amount. A.C.A. § 21-9-303(b). I lack information sufficient to determine either the extent, if any, of the city’s liability coverage on the volunteer’s private vehicle or whether the city faces any exposure as a self-insurer under these circumstances. The city might further face liability under federal law, 42 U.S.C. § 1983, for the violation of a clearly established statutory or constitutional right. The determination of whether any such violation occurred is a question of fact that I cannot address.

Opinion No.: 2000-272

Col. Tom Mars
Director, AR State Police

RE: Q1) In light of the provisions of ACA 21-9-203 and the burden of proof that must be met for the imposition of punitive damages, is the State of Arkansas ever authorized to pay actual/compensatory damages assessed against a state officer or employee when a state or federal court has assessed punitive damages against the officer or employee for the same conduct that resulted in the assessment of actual damages? Stated otherwise, may an agency of the

State of Arkansas disregard a trial court’s finding of malice or intentional conduct sufficient for the imposition of punitive damages and pay any actual damages assessed against its officer or employee? Q2) If the answer is in the affirmative, under what circumstance[s] may the agency do so? **RESPONSE:** Q1) I believe the answer to both parts of your first question is “yes.” I do not believe that if a defendant is assessed punitive damages pursuant to Arkansas Model Civil Jury Instruction No. 2218 he has necessarily acted with malice precluding reimbursement of compensatory damages pursuant to ACA 21-9-203(a). The statute clearly anticipates that a jury might impose both compensatory and punitive damages against a defendant who has nevertheless acted without malice. Alternatively — and, to my mind, more importantly — I believe the legislature intended the state to make its own independent determination on the issue of malice. ACA 19-10-305 immunizes state employees from suit except in cases of malice, which means that the trier of fact will already have made a determination of malice before the suit can proceed. ACA 21-9-203 would be meaningless if the state otherwise, since it would be foregone by dint of the verdict in every case that the challenged conduct was malicious, thus barring the state from paying damages. Q2) See response to Question 1.

Opinion No.: 2000-316

Gordon Webb
Pros. Attorney, 14th Judicial District

RE: Is the placement of a bonding company advertisement, which can only be seen by individuals driving to the sheriff’s department, a violation of the regulations governing bonding companies? **RESPONSE:** The language of the applicable statute (ACA 17-19-105) does not address this question and the phrase “in or about”, as used therein, should be legislatively clarified. Under the facts given, the sign in question could be deemed “in or about” a place where prisoners are confined, if, as a factual matter, prisoners are held at the Sheriff’s Dept.

ATTORNEY GENERAL OPINIONS

Opinion No.: 2000-319

Bill Walters
State Senator

RE: Does a city council in a second class city have authority to rehire, as patrolman, the chief of police that the mayor fired and to place that patrolman under the direct supervision of the city council? The mayor vetoed the city council's action but the council ignored the veto. What is the former police chief's employment status? **RESPONSE:** This request raises issues of fact I am neither equipped nor authorized to resolve. Pursuant to ACA 14-42-110, the mayor has authority to appoint and remove department heads unless the city council overrides the mayor's action by a 2/3 majority of the total council membership. Pursuant to ACA 14-52-101, the city council has authority to organize a police department subject to the mayor's "general superintendence." However, absent statutory directives to the contrary, the hiring and firing of municipal employees may be controlled by municipal charter and ordinances — i.e., by the city council. See Ark. Ops. Attorney Gen. Nos. 93-268 and 93-332. I am unaware of the scope of the city ordinances. With respect to the mayor's veto of the police chief's rehiring as a patrolman, ACA 14-44-107 provides that a mayor may veto action by a city council subject to override by a 2/3 majority of the total council membership. Assuming the mayor observed the statutory formalities, and further assuming the city council did not override the veto by a 2/3 majority, in my opinion the resolution purporting to rehire the chief as a patrolman is null and void.

Opinion No.: 2000-321

Stewart K. Lambert,
Pros. Attorney, 3rd Judicial Circuit

RE: Does the quorum court have authority to order the county sheriff, by ordinance or otherwise, to allow his department to become the operating agency

for the county 911 system? **RESPONSE:** No, ACA 12-10-302(e)(2) requires the sheriff's concurrence.

Opinion No.: 2000-324

David Bisbee
State Senator

RE: In light of the 4th Amendment to the U. S. Constitution, does the State Fire Marshal's Office or a local fire marshal have authority to enter a building or premise for a fire inspection under Rule 102.1 of the State's Standard Fire Prevention Code without first obtaining a search warrant? **RESPONSE:** Sections 102.1.1 and 102.1.2 of the Standard Fire Prevention Code clearly anticipate that an inspector will be allowed access to premises during reasonable hours upon presenting his credentials and requesting entry. However, if the owner refuses access, the fire marshal may only enter forcibly in a limited range of circumstances. As a general proposition, absent exigent circumstances, warrantless, nonconsensual fire-code inspections of both private residences and the non-public areas of commercial buildings offend the prohibitions against unreasonable searches and seizures set forth in the U.S. and Arkansas Constitutions. A major exception to this rule exists in the case of certain highly regulated industries in which the regulations expressly call for such inspections. Although one portion of the Standard Fire Prevention Code might be read as impermissibly authorizing routine inspections outside the scope of this exception, the Code will support a contrary reading. I believe the Code provisions at issue anticipate that, in the rare instances when an inspector is denied entry, he should obtain a warrant before conducting a nonconsensual inspection.

Opinion No.: 2000-325

Paul Bookout
State Representative

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RE: Does the sovereign immunity conferred upon school districts by Arkansas law extend to any torts that may occur outside the State of Arkansas when students are engaged in a school activity (e.g., FBLA, FHA, Student Council meetings) or on a social trip (e.g., senior graduation trips)? **RESPONSE:** It depends. If the plaintiff files suit against the school in Arkansas, immunity will in all likelihood apply. If he files suit in another state, the forum state will in all likelihood honor Arkansas' immunity statute, ACA 21-9-301, in accordance with the principle of judicial comity only if the forum state would likewise extend immunity to its own schools. Finally, it is highly questionable that a governmental immunity would extend in any event to torts committed on a social trip, since the connection to education would be too tenuous to render the alleged tort one committed in the course of employment.

Opinion No.: 2000-328

Roger Miner
Director, Carroll Co. Solid Waste Authority

RE: Request for approval of interlocal cooperation agreement between the Carroll County Solid Waste Authority and the City of Berryville to extend the Authority's solid waste and recycling services to businesses and residents within the City of Berryville. **RESPONSE:** This agreement does not fall within the provisions of the Interlocal Cooperation Act and therefore does not require the AG's approval.

Opinion No.: 2000-329

Mike Hathorn
State Representative

RE: When a school district incurs damages resulting from fraudulent acts committed by its superintendent, does the Arkansas Governmental Bonding Board have the authority and discretion to

consider evidence of damages other than those incurred by the bid discrepancy? **RESPONSE:** See Ark. Op. Attorney Gen. No. 2000-042. In my opinion, absent a contrary provision in the bond, which ultimately controls the parties' respective contractual rights, the school board should probably be permitted to put on proof of damages to supplement the evidence contained in the Legislative Auditor's proof of loss. ACA 21-2-704(b) provides that the Arkansas Fidelity Bond Program, set forth in A.C.A. 21-2-701 through -711 (Repl. 1996 & Supp. 1999), will cover "actual losses" suffered by participating governmental entities through any fraudulent or dishonest act or acts committed by any of the officials or employees, acting alone or in collusion with others. ACA 21-2-709(a) provides that vouchers for bond claim payments shall "include" as support the Legislative Auditor's proof of loss. The term "include" suggests that additional evidence may be considered. Moreover, as a general proposition a "proof of loss" is interpreted as constituting a mere estimate to be tested in light of the evidence as a whole. See 250 Ark. 789, 800; 319 Ark. 716. The school district should consequently be permitted to put on its own proof of damages.

Opinion No.: 2000-330

Richard Simmons
State Representative

RE: Can an unlicensed person working under the direction and oversight of a licensed plumber, assist in plumbing and septic tank work? **RESPONSE:** In my opinion, the answer to your question will depend on the type of work the unlicensed person is doing. Although unlicensed plumber's assistants may perform such tasks as delivery, trenching and other physical labor, Section III(m) of the Arkansas State Board of Workforce Education's Rules and Regulations Pertaining to Apprentice Plumbers Registration, I do not believe they may undertake work of the sort normally done by registered apprentices or licensed journeyman and master plumbers. A.C.A. § 17-38-301(a)(1). See A.C.A. § 17-38-101 for definitions of plumbing work. Also see companion Opinion No. 2000-

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342.

Opinion No.: 2000-333

Jimmy "Red" Milligan
State Representative

RE: Do provisions of the Litter Control Act (codified at ACA 8-6-400, et seq.) authorize any enforcement officer to enter onto any property to remove a junk motor vehicle whether said property is owned by the junk motor vehicle owner or not? **RESPONSE:** No. Section 8-6-413, read together with 8-6-408, does not allow a law enforcement officer to remove a person's junk motor vehicle from his or her own private property. These provisions are intended to prevent persons from discarding, among other things, junk motor vehicles on another person's property. Other remedies may, however, be available to law enforcement. See, e.g., Ark. Highway Beautification Act, Solid Waste Management Act, and public nuisance law generally.

Opinion No.: 2000-338

David Shade
Chair, AR Board of Examiners in Psychology

RE: Is a party involved in a court-ordered custody evaluation by a court-appointed psychologist, licensed by the Arkansas Board of Examiners in Psychology, considered to be a "patient" of that evaluator for purposes of determining the applicability of ACA 16-46-106, granting patient access to medical records? Q2) If the answer to Q1 is that the evaluated party is not a patient, does that party have to resort to the subpoena process or court order to gain access to the professional's records of that evaluation? **RESPONSE:** Q1) Probably, although neither the Arkansas courts nor the legislature has ruled on this issue. The separation of powers doctrine precludes me from formulating a definition. Q2) If my tentative answer to Question 1 proves correct, this question is moot. If the courts or the legislature determined that the examinee in your hypothetical was not a "patient," ACA 16-46-106 would not apply and the examinee

would need to rely on the discovery methods set forth in the Arkansas Code and the Rules of Civil Procedure.

Opinion No.: 2000-339

Ed Wilkinson
State Senator

RE: Will Westark College be entitled to continue receiving a millage after it becomes a part of the University of Arkansas system? **RESPONSE:** I cannot respond to this question at this time because it requires reference to facts that have yet to be developed with respect to the exact process by which Westark becomes a part of the U of A system. Legislation that has yet to be enacted may also be a factor in the analysis. Any discussion at this time would thus be speculative and premature.

Opinion No.: 2000-342

Steve Franks
Director, AR Dept. of Workforce

RE: Does a person who works at the occupation of plumber in Arkansas have to complete an apprenticeship training program in order to take the journeyman plumber examination? **RESPONSE:** In my opinion, although the law on this issue would benefit by clarification, an applicant for the journeyman plumber examination must have completed a registered apprenticeship or, in exceptional cases, its equivalent as determined by the State Plumbing Apprentice Committee.

Opinion No.: 2001-002

Steve Napper
State Representative

RE: Does the Supreme Court's decision in Allred,

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et al. v. McCloud, et al., have the effect of rendering Pulaski County's term limits initiative invalid? RESPONSE: The Allred decision renders the Pulaski County measure subject to challenge. The Pulaski County measure is essentially the same as the one stricken in Allred. However, until challenged and stricken, it remains viable.

Opinion No.: 2001-003

William Randal Wright
Pros. Attorney, 8th Judicial Dist. North

RE: What are the procedures with which Nevada County would proceed to sell a county-owned abandoned hospital to a private organization? Q2) What procedures should Nevada County implement to enter into a lease/purchase agreement with a private organization for a county-owned abandoned hospital? Q3) Would it be permissible for Nevada County to deed a county-owned abandoned hospital to the Nevada County Industrial Development Corporation? RESPONSE: Q1) Answered in Ark. Ops. Attorney Gen. Nos. 96-126 and 96-292. Although it is questionable whether the facility remains a "hospital" subject to the election provisions of ACA 14-16-105(g), this issue is moot since the voters have already approved the sale. In my opinion, any sale would require renewed notice and bidding pursuant to ACA 14-16-105. Q2) Answered in Ark. Op. Attorney Gen. No 96-292. The proposed lease to a "private organization" would be permissible only if the organization fell within the limited range described at ACA 14-16-110. In addition, a "lease/purchase" arrangement might be classified as a conditional sale subject to the conditions discussed in response to Question 1. Q3) Giving the facility away would offend Ark. Const. art. 12, section 5. See Ark. Op. Attorney Gen. No. 1999-408.

Opinion No.: 2001-004

Lona Horn McCastlain
Pros Attorney, 23rd Judicial District

RE: Can a felon who is sentenced under Act 346 and who has not completed his sentence, vote in an election? Q2) Does it matter if the felon was still registered to vote according to the voter registration list? RESPONSE: Q1) Yes. Act 346 of 1975 (the "First Offender Act"), codified at A.C.A. § 16-93-303, permits an accused who is not a prior felon to plead guilty or nolo contendere, receive a probation and later have his or her case dismissed and record expunged, if the defendant fulfills the terms and conditions of probation. Ark. Const. amend. 51, section 11(a) provides that the permanent registrar should cancel the registration of voters "who have been convicted of felonies . . ." There will be no "conviction" under Act 346 unless the offender breaks the terms of parole. Unlike a suspended execution of sentence, a suspended imposition of sentence is not a conviction. Accord ACA 5-4-301(d)(1). Q2) Moot.

Opinion No.: 2001-005

Mike Beebe
State Senator

RE: Does the procedure for hiring professional appraisers under ACA 26-26-1901 et seq, supersede the procedure prescribed in ACA 26-26-601 et seq? If not, are the procedures in those two subchapters alternatives or must the procedures in both be complied with in order to hire professional appraisers? RESPONSE: ACA 26-26-1901 et seq. does not supersede ACA 26-26-601 et seq. Rather, it creates a requirement that must be met in addition to the requirements of 26-26-601 et seq.

Opinion No.: 2001-006

Mike Medlock
Pros Attorney, 21st Judicial District

RE: Q1) Did proposed Crawford County

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Ordinance No. 26-2000, which has an emergency clause, pass or fail since 6 of the 11 members of the court voted to enact the ordinance? Q2) Would proposed Crawford County Ordinance No. 29-2000, regarding ownership and possession of carnivorous felines, be valid under present State and Federal laws? RESPONSE: Q1) It passed as though it did not contain an emergency clause, and therefore did not go into effect immediately. Q2) On its face, it does not conflict with state or federal law, but could be applied in a manner that would cause such a conflict. Opinion reviews counties' authority to regulate.

Opinion No.: 2001-007

Paul Weaver
State Representative

RE: Does the Izard County ordinance that established countywide emergency medical service violate any federal laws by prohibiting the EMS provider from billing any covered household (i.e., one that annually pays a voluntary fee) for money over and above that recovered from private insurance or Medicare? RESPONSE: No. I have located one instance in which an ambulance program was challenged under the False Claims Act, 31 USC 3729-3733, for charging differential rates by providing free indigent care. *A-1 Ambulance Service, Inc. v. California*, 203 F.3d 1238 (9th Cir. 2000). The plaintiff (a disappointed EMS bidder) argued that this defrauded Medicare by increasing the size of claims against it in order to subsidize indigent care. Because the program had been well publicized, as in this case, the court held that the private plaintiff lacked standing to file a qui tam action on behalf of the government, which had itself elected not to sue. I believe some degree of cost shifting is an inevitable consequence of medical care and am unaware that it has ever been successfully challenged as violating the False Claims Act.

Opinion No.: 2001-008

Ann H. Bush

State Representative

RE: Will the students who have been attending a school district under the Ark. Public School Choice Act be allowed to remain in schools after the district withdraws from the school choice program, or must they return to their resident districts? RESPONSE: Although the Act does not explicitly address this question, its language provides a basis for interpreting it to allow the students to remain in the district they have been attending, even if that district withdraws from the program prospectively.

Opinion No.:2001-009

Jack Critcher
State Senator

RE: Are the items that have been donated to a sheriff's department reserve unit the property of the unit or of the sheriff's department? Q2) If an incoming sheriff elects to disband the unit, does he have authority to demand that the donated items be returned to his office? RESPONSE: I am unable to answer your questions, since determining who owns the property will entail conducting a factual inquiry into the circumstances surrounding the donations. I cannot answer the factual question of whether the donors gave the property to the sheriff's department, to the reserve unit as a separate entity or to the individual members of the reserve unit. I also cannot determine whether the donors conditioned the gifts on their continued use in law enforcement. These are questions that can only be resolved by a finder of fact.

Opinion No.: 2001-010

Barry Emigh

RE: Request for certification of proposed popular name and ballot title for a constitutional amendment to establish a trust fund using proceeds from the food

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tax to pay canvassers and sponsors, award scholarships, and supplement teachers pay and retirement prior to abolishing the tax. RESPONSE: Popular name and ballot title rejected due to ambiguities in the text of the proposed measure.

Opinion No.: 2001-011

Walter E. May
Wright, Lindsey & Jennings

RE: Request for approval of an interlocal cooperation agreement between the cities of Little Rock and North Little Rock to consolidate their water systems. RESPONSE: Agreement approved as submitted.

Opinion No.: 2001-012

Larry Prater
State Representative

RE: Q1) May a quorum court sitting in regular session amend a county library board budget after that budget has been approved by the quorum court sitting as a committee of the whole? Q2) May the quorum court do so without notifying the library board or the library system director of its intention to reconsider the budget at the regular session? Q3) Does a county quorum court have authority to withhold funds from a voter approved millage to benefit the library fund, including funds provisionally earmarked for salaries? RESPONSE: Q1) Yes. The full quorum court has the authority to amend a budget proposal submitted by a committee notwithstanding the fact that the committee has not "rescinded" its proposal. ACA 14-14-801; 13-2-401. However, assuming the library fund contains adequate resources, the quorum court is obligated to appropriate a budget sufficient to support the operation and maintenance of the library system. ACA 13-2-404(a)(2). Q2) Absent a local ordinance requiring notice, I do not believe a quorum

court is obligated to seek input from or provide notice to a county library board before reconsidering a budget proposal during a regular quorum court meeting. Under the FOIA, the quorum court would only be obligated to advise the board that it was meeting, and only then if requested to do so. ACA 25-19-106(b)(1). The FOIA contains no requirement to notify anyone of the meeting's agenda. See Ark. Op. Attorney Gen. No. 98-033. Q3) As reflected in my response to question 1, I do not believe the quorum court is obligated to appropriate the entire corpus of a library fund as the library board's annual budget. However, the quorum court must appropriate a portion of available funds sufficient to ensure the smooth operation of the library system. The quorum court has discretion to set the salaries of library-system employees, Ark. Const. amend. 55 and ACA 14-14-801(b)(6), subject to the condition that these salary decisions cannot have the practical effect of encroaching on the library board's ability to carry out its administrative responsibilities. Ark. Ops. Attorney Gen. Nos. 93-275 and 90-319.

Opinion No.: 2001-013

Barry Emigh

RE: Request for certification of popular name and ballot title of proposed constitutional amendment to legalize bingo and raffles by nonprofit organizations and legalize the operation of for profit gambling on water vessels. RESPONSE: Popular name and ballot title rejected due to ambiguities in the text of the proposed measure.

Opinion No.: 2001-015

Eddy Easley
Pros. Attorney, 7th Judicial District

RE: Were the appointments made to a Public Facility Board after the passage of the enacting ordinance, but prior to the effective date of the ordinance

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(30 days after publication) valid? RESPONSE: State law does not address this question explicitly, but under general common law, an officer or board cannot deprive a differently-constituted successor of the opportunity to make an appointment. If the county judge or quorum court will be different after the effective date of the ordinance, the appointments were invalid, under this principle of common law. However, the appointees are de facto officers whose acts are valid.

Opinion No.: 2001-016

Rebecca F. Ward, LSCW
Chair, Social Work Licensing Board

RE: Q1) Is an individual who is a member of the Arkansas Chapter of the National Association of Social Workers (“NASW”), but is not licensed by the Social Work Licensing Board, “representing oneself to be a social worker” in violation of ACA 17-103-105(1)? Q2) Is an individual who is a member of the Arkansas NASW, is a sitting Board member of the Arkansas NASW, but is not licensed by the Social Work Licensing Board, “representing oneself to be a social worker” in violation of ACA 17-103-105(1)? RESPONSE: Q1) No. Although the Board interprets the term “social worker” to mean “licensed social worker,” for purposes of the Act, the NASW does not interpret the term to mean “licensed” for purposes of membership in the NASW. Q2) No. See discussion in opinion under Q.1

Opinion No.:2001-018

Mike Beebe
State Senator

RE: Q1) Can a mayor of the town administer the oath of office to the officers of the town? Q2) If the mayor cannot administer the oath of office and has administered the oath to an appointed council member

who subsequently votes on an ordinance, is the ordinance valid? Q3) Would an alderman appointed to fill a vacancy be legally in office if the mayor administered the oath for the last month of one term and then the county clerk administered the oath for the next two year term? RESPONSE: 1) No. See 21-2-105. 2) Yes, the council member’s actions are valid as those of an officer “de facto.” 3) He is a de facto officer for the last month of the first term and a valid “de jure” officer for the second term after having been sworn in by the county clerk.

Opinion No.: 2001-020

Tom Tatum, II
Pros Attorney, 15th Judicial District

RE: Is there any legal conflict which would prevent an elected justice of the peace serving on the Yell County Quorum Court from simultaneously serving in an uncompensated position on the Northeast Yell County Water Association Board of Directors (a public facilities board)? RESPONSE: It depends on the provisions of the ordinance that created the board, and whether the quorum court exercises any control over the board. If so, this dual service is impermissible under the doctrine of incompatibility.

Opinion No.: 2001-022

Cecile Bledsoe
State Representative

RE: Since the Benton County Quorum Court approved the County’s 2001 budget without realizing that raises had been included for most of the county’s constitutional officers, would provisions of ACA 14-14-1203(d) prevent the quorum court from amending the 2001 budget to return the salaries of those constitutional officers to the 2000 budget level? RESPONSE: Yes, the statute prohibits decreasing

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the salaries of county constitutional officers unless it is effective January 1 after the next general election. See also, Arkansas Constitution, Amendment 55, sec. 5. The only possible way to challenge the ordinance would be to prove fraud or bad faith in a judicial action.

Opinion No.: 2001-025

Jodie Mahony
State Senator

RE: Does Amendment 7 to the Arkansas Constitution (the initiative and referendum amendment) authorize the General Assembly to amend or repeal constitutional amendments upon a two-thirds vote of the members elected to each House of the General Assembly? **RESPONSE:** No. See Game and Fish Commission v. Edgmon, 218 Ark. 207, 235 S.W.2d 554 (1951).

Opinion No.: 2001-028

Robert F. Thompson
Thompson, Philhours & Branch

RE: Is the decision of the custodian of records not to release a record of the proceedings from an investigation of sexual harassment, which was held by the full Northeast Arkansas Solid Waste Management District Board, consistent with provisions of the Freedom of Information Act (FOIA)? **RESPONSE:** The records may constitute personnel

records or employee evaluation/job performance records. The opinion analyzes the standards for the release of both types of records.

Opinion No.: 2001-033

Mike Huckabee
Governor

RE: In light of the decision in Chaffin v. Arkansas Game & Fish Comm'n, 296 Ark. 431, 757 SW2d 950 (1988), does H. B. 1018 violate the separation of powers doctrine as it appears in Ark. Const. art. 4? **RESPONSE:** The bill amends ACA 10-3-309, which governs the legislative oversight of administrative rules and regulations by the Legislative Council. Although the constitutionality of the bill may depend upon its practical application, it is my opinion that under Chaffin, it is constitutionally suspect.

Opinion No.: 2001-034

Paul Weaver
State Representative

RE: Is it legal for an ambulance service to enter into a contract with IZARD County following the guidelines with IZARD County Ordinance No. 0-801-13? **RESPONSE:** This is a follow-up to a request addressed in Ark. Op. Attorney Gen. No. 2001-007. Although I suspect the ordinance would not impermissibly waive Medicare co-payments and deductibles if the \$15 per household annual assessment were adequate to cover these expenses, determining as much will entail a factual inquiry I am neither authorized nor equipped to undertake. Moreover, rendering an opinion on this matter of federal law is better undertaken by the Office of the Chief Inspector General in Washington, D.C. The procedures for requesting an advisory opinion are set forth at 42 CFR Part 1008.

ADOPTED RULES AND REGULATIONS

ASSESSMENT COORDINATION DEPARTMENT

Docket No.: 177.00.01--001
Effective Date: 2/1/00
Contact Person: John Allen
Telephone: (501) 324-9240

**Rules and Regulations (12/20/00) and
Personal Property Assessment Manual
2001 Edition**

DEPARTMENT OF COMMERCE *State Plant Board*

Docket No.: 003.11.01--001
Effective Date: 4/1/01
Contact Person: Mary Smith
Telephone: (501) 225-1598

**Emergency Rule: Official Standards for
Seed Certification**

DEPARTMENT OF COMMUNITY PUNISHMENT

Docket No.: 159.00.01--001
Effective Date: 1/8/01
Contact Person: G. David Guntharp
Telephone: (501) 682-9568

**Emergency Rule: AR 3.14 - Employee
Conduct and Discipline**

HUMAN SERVICES *Administrative Services*

Docket No.: 016.14.01--002
Effective Date: 2/20/01
Contact Person: Bill Tyler
Telephone: (501) 682-9631

DHS Contract Manual

Docket No.: 016.14.01--003
Effective Date: 2/23/01
Contact Person: Bill Tyler
Telephone: (501) 682-9631

DHS Policy 1097 - Utilization of Credit Cards for Small Order Purchases

Child Care & Early Childhood Education

Docket No.: 016.22.01--001
Effective Date: 7/01/01
Contact Person: Marya Bradshaw
Telephone: (501) 682-8763

Child Care System Participant Agreement (DHS 9800)

Children & Family Services

Docket No.: 016.15.01--002
Effective Date: 2/15/01
Contact Person: Vivian Jackson
Telephone: (501) 682-1577

PUB-052 - Child Protective Services: A Caretaker's Guide

ADOPTED RULES AND REGULATIONS

County Operations

Docket No.: 016.20.01--001
Effective Date: 2/1/01
Contact Person: Sandra Miller
Telephone: (501) 682-8251

**Medical Services Policy 28000 - 28070:
State Plan #99-025 - Working Disabled
Program**

Docket No.: 016.20.01--002
Effective Date: 2/19/01
Contact Person: Troy Branscum
Telephone: (501) 682-8722

**Weatherization Assistance Program -
2001 State Plan**

Medical Services

Docket No.: 016.06.01--004
Effective Date: 2/1/01
Contact Person: Joie Wallis
Telephone: (501) 682-5424

**Medicaid State Plan #00-014 - Working
Disabled Program**

Docket No.: 016.06.01--005
Effective Date: 2/1/01
Contact Person: Joie Wallis
Telephone: (501) 682-5424

**Official Notice DMS-2000-W-6 -- Working
Disabled Program**

Docket No.: 016.06.01--006
Effective Date: 3/1/01
Contact Person: Carolyn Patrick
Telephone: (501) 682-8359

ARKids First-B Update Transmittal #9

**POLLUTION CONTROL &
ECOLOGY**

Hazardous Waste

Docket No.: 014.09.01--001
Effective Date: 1/28/01
Contact Person: Mike Bates
Telephone: (501) 682-0831

**Regulation No. 29 - Brownsfield
Redevelopment**

Docket No.: 014.09.01--002
Effective Date: 1/28/01
Contact Person: Mike Bates
Telephone: (501) 682-0831

**Regulation No. 23 - Hazardous Waste
Management**

*** The January 2001 issue of the *Arkansas Register* mistakenly listed rules for the Workers' Compensation Commission. These rules should have been filed under Workforce Education. The Docket #'s should read 172.00.00--005 and 172.00.00--006 respectfully. The other information contained in that listing is correct.

INSURANCE DEPARTMENT

01-001

(Adoption Order)
In the Matter of the
Report of Examination of
**Arkansas National Life
Insurance Company**

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In the Matter of
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01-003

(Consent Order)
In the Matter of
Arthur Leon Florer

01-004

(Consent Order)
In the Matter of
Glen Raymond Carlson

01-005

(Consent Order)
In the Matter of
Paulette Kempson

01-006

(Consent Order)
In the Matter of
Alton B. Raney

01-007

(Consent Order)
In the Matter of
Tyler White

01-008

(Consent Order)
In the Matter of
James Charles Olmedo

01-009

(Order)
In the Matter of the
Report of Examination as of
December 31, 1999, for
**Farm and Home Mutual Insurance
Company, a Farmers Mutual Aid
Association, of Paragould, Arkansas**

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David Leon Stone

01-011

(Consent Order)
In the Matter of
Robert Thomas Goslee

01-012

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In the Matter of
Terry Lamb

01-013

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In the Matter of
Jimmie Shane McElroy

01-014

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In the Matter of
Brenda Elaine Lewis

INSURANCE DEPARTMENT

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(Consent Order)
In the Matter of
David Lee Williams

01-016

(Consent Order)
In the Matter of
Margaret Ann Kurtz

01-017

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In the Matter of
Jim Donald Leonard

01-018

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Tina Ann Hooper

01-020

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In the Matter of
Traci Hughes Beene

01-021

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In the Matter of
John Michael Penn

01-022

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In the Matter of
Brandy Diane Lorenz

01-023

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In the Matter of
James Scott Hearn

01-024

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In the Matter of
Lloyd Vernon Childress

01-025

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01-026

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In the Matter of
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01-027

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In the Matter of
John Keith Bliss

01-028

(Consent Order)
In the Matter of
Earl Douglas Weniger

01-029

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In the Matter of
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01-030

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In the Matter of
Michael Dean Munson

INSURANCE DEPARTMENT

01-031
(Consent Order)
In the Matter of
Terence Larue Bolden

01-032
*(Emergency License
Suspension Order)*
In the Matter of
Liliana Murphy

01-033
(Order of Revocation)
In the Matter of
Van-Hung Porter

01-034
(Consent Order)
In the Matter of
Patricia Lee Miller

01-035
(Consent Order)
In the Matter of the
Application for Approval of
the Acquisition of Control of
**Foundation Life Insurance
Company of Arkansas**

01-036
(Consent Order)
In the Matter of
Barry Joseph Roe



ORDERS AND NOTICES

LEGISLATIVE AUDIT

Agency _____ Period Covered

*** No report was submitted to the *Arkansas Register* for the month of February.

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