



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

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STEVE CLARK
ATTORNEY GENERAL

OPINION NO. 85-171

July 30, 1985

The Honorable David E. Roberts
State Representative
3419 North Hills Boulevard
North Little Rock, Arkansas 72116

Dear Representative Roberts:

This Opinion is written in response to your request as to whether the awarding of a contract for the printing and furnishing to the Arkansas General Assembly of legislative bills and resolutions to a company owned by the spouse of a member of the General Assembly violates any conflict of interest provisions or any other provisions of the Arkansas Constitution.

Amendment 54 to the Arkansas Constitution of 1874 provides:

The printing. . . purchased by the General Assembly and other departments of government shall be under contracts given to the lowest responsible bidder. . . [N]o member or officer of any department of government shall in any way be interested in such contracts. (Emphasis added).

Although certain of the provisions of Amendment 54 have been judicially construed in Chaney v. Bryant, 259 Ark. 294, 532 S.W.2d 741 (1976) and Erxleben v. Horton Printing Co., 283 Ark. 272, 695 S.W.2d 638 (1984), the above-emphasized language has never been at the issue before the Court.

The key language for purposes of this Opinion prohibits a member of the General Assembly from being interested in any way in a printing contract between his or her spouse and the Legislature.

We have previously discussed the issue you present in Opinion 76-162, a copy of which is attached. The question which gave rise to the Opinion was whether it would be a conflict of interest for a city director's husband to sell equipment to the city. The governing law was Ark. Stat. Ann. §19-714 and §19-716(c) (Repl. 1968) which prohibit city officers and employees from being "interested directly or indirectly in any contracts made with the city."

The Honorable David E. Roberts
July 30, 1985
Page 2

We opined that since the law no longer presumes that a wife is dependent on her husband nor are they one legal entity, there can be no presumption that a wife automatically has an interest in her husband's business.

That legal analysis applies to the instant situation. To determine whether such benefits accrue to the spouse of a Legislator would be a matter of factual proof to be considered by a court.

In consideration of the foregoing, it is my opinion that the answer to your question is "no" unless it can be shown as a matter of proof that the spouse has a direct or indirect interest in the contract.

The foregoing opinion, which I hereby approve, was prepared by Chief of Staff R.B. Friedlander.

Sincerely,



STEVE CLARK
Attorney General

JSC:RBF:ble