

## Advisory Opinion

IECDB AO 2016-01

January 28, 2016

### TO ALL INTERESTED PERSONS:

Pursuant to Iowa Code section 68B.32A(12) and rule 351–1.2, the Iowa Ethics and Campaign Disclosure Board issues this opinion regarding whether a city employee may also serve on the city council. We note at the outset that the Board’s jurisdiction is limited to the application of Iowa Code chapters 68A and 68B, Iowa Code section 8.7, and rules in Iowa Administrative Code chapter 351. Advice in a Board opinion, if followed, constitutes a defense to a subsequent complaint based on the same facts and circumstances.

### QUESTION:

Is it permissible for an individual to serve on a city council and be employed by the same city?

### OPINION:

In 2008, the West Des Moines City Attorney sought an advisory opinion from the Board on this very issue. In that opinion, IECDB AO 2008-08, we opined that “[n]othing in the ethics laws in Iowa Code chapter 68B expressly prohibits a member of the city council from also being employed by the city’s water department.” We then explained that the council person’s city employment would constitute a conflict of interest and necessitate publicly disclosing the conflict and refraining from taking any actions as a member of the city council on issues involving the water department and issues impacting the individual’s work or compensation at the water department.

Today we reaffirm this decision. However, we reiterate that our opinion in IECDB AO 2008-08 is limited to the application of chapter 68B of the Code and we offer no opinion on whether any other statute, rule or ordinance may preclude a city employee from also serving on the city council. Without taking any position, we direct all interested persons to the potential applicability of Iowa Code section 372.13(8) and section 362.5.

BY DIRECTION AND VOTE OF THE BOARD

James Albert, Board Chair

Jonathan Roos, Vice Chair

Saima Zafar

Carole Tillotson

John Walsh

Mary Rueter

Submitted by Megan Tooker, Board Legal Counsel