



Arkansas Natural Resources Commission



J. Randy Young, PE
Executive Director

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Mike Beebe
Governor

February 9, 2011

RE: Comments on Registration of Municipal Advisors, File No.: S7-45-10.

This letter is being sent to you on behalf of the governing board of the Arkansas Natural Resources Commission. The Commission is the state agency responsible for managing and protecting water and land resources for the health, safety and economic benefit of the State of Arkansas. The governing board of the Commission is composed of nine voluntary members appointed by the Governor of Arkansas. The Commission issues tax-exempt general obligation bonds of the State of Arkansas to fund water, waste disposal, and pollution abatement facilities. Through its role in oversight of this program and the approval of bonds, the governing board could be deemed to provide "advice to or on behalf of" a municipal entity or conduit borrower with respect to "municipal financial products" or the issuance of municipal securities.

Appointed board members should not be included within the Dodd-Frank Act's definition of "municipal advisors." Since neither the Dodd-Frank Act nor the SEC Proposed Rules provides guidance on what the term "advice" means, this governing board would be subject to considerable doubt as to how much consultation with management would result in "advice" under the Dodd-Frank Act and thereby cause them to be municipal advisors. Further, absent a clear definition of what constitutes advice, appointed board members could find themselves charged with violating municipal advisor provisions of the Dodd-Frank Act long after they provided the alleged advice and when circumstances have since developed that retroactively call the appropriateness of the advice into question. As a precaution, appointed board members may need to register until these definitions become clear. Registration requires a fee, ten-year employment history, information on other business activities of the municipal advisor, disclosure of civil judicial actions involving the violation of municipal advisor related statutes, disclosure of bankruptcy proceedings, and other personal information. Such information would be available to the public.

Appointed members of governing bodies are appointed by elected officials and subject to removal by that elected official for acts or omissions. Even though not directly accountable to citizens of a municipal entity for their performance, such members are accountable to an elected official who will want to retain favorable public opinion.

The overly broad municipal advisor provisions of the Dodd-Frank Act could result in fewer talented individuals volunteering their talents and time to the administration of government. Appointed board members should not be subjected to the expense of registration, the time requirements to comply with record keeping requirements, publication of sensitive, personal

information, or regulation that would limit their abilities to make political contributions. Burdening voluntary board members does not promote financial stability. Inclusion of appointed board members within the Act as municipal advisors could cripple local government's ability to function and take care of its citizens.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Randy Young', with a stylized flourish at the end.

J. Randy Young, P. E.
Executive Director
Arkansas Natural Resources Commission

cc: Chair Alec Farmer, Vice Chair Sloan Hampton, Commissioners James Neal Anderson, Mike Carter, Ann Cash, David Feilke, Corbet Lamkin, Jerry Mitchell, and Don Richardson.