



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 31-13

Legislator Reporting on the Activities of the General Assembly

A State legislator is contemplating writing newspaper or magazine articles, or acting as a commentator on a radio or television program, the subject of his periodic articles or commentary to be the activities of the General Assembly. He has asked the State Ethics Commission whether this would constitute either a real or apparent conflict of interest. He has further inquired whether it makes a difference if he is paid for his services as a writer or commentator.

As a public official, subsection 1-79(j), General Statutes, the legislator is subject to the provisions of the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes. All provisions of the Code which proscribe certain conduct by public officials and appear applicable to the case at hand forbid official action taken in the expectation of some financial benefit to the State official or employee who takes the action, or to his family or to a business with which he is associated. See sections 1-84 through 1-86, General Statutes. Consequently, if the legislator were to accept no compensation for writing or talking about the General Assembly, the Code of Ethics for Public Officials would not bar his proposed pursuits.

The situation is quite different if the legislator is compensated for his periodic services as an author or commentator. His actions as a member of the General Assembly, particularly any that are out of the ordinary, will be subject to special review: were they taken because he felt it best for the State, or for his constituents, or because they would make good press? There could be the appearance, at least, of a substantial conflict of interest if he were to be paid for writing a story about some activity in the General Assembly which he helped to generate. Subsection 1-84(a), section 1-85, General Statutes. The same situation could constitute use of public office to obtain financial gain. Subsection 1-84(c), *id.* In fact, that subsection may be violated simply by a legislator accepting employment as a reporter or evaluator of General Assembly activities. Section 1-86, concerning potential conflicts of interest, could cause the legislator considerable difficulty. That section provides that a public official required to take an official action which would affect a financial interest of his must, with exceptions which probably are not pertinent, either abstain from acting or file a written statement identifying the potential conflict of interest and explaining why the legislator can, despite it, act fairly, objectively, and in the public interest. Section 1-86, *id.* The legislator

would face a dilemma if he were required to participate officially in some activity that would be newsworthy, a fairly common occurrence for a legislator. In addition, were he to abstain because of a potential conflict of interest, it would appear he had violated the provision forbidding accepting other employment which impairs a public official's independence of judgment as to his official duties. Subsection 1-84(b), General Statutes. (This provision would not pose a problem, insofar as the Code is concerned, if the legislator were uncompensated as an author or commentator. Unpaid activity is not "employment". Ethics Commission Advisory Opinion No. 80-18, 42 Conn. L.J. No. 22, p. 23 (Nov. 25, 1980).) Finally, there would be opportunities for use or disclosure, intentionally or inadvertently, of confidential information, gained as a member of the General Assembly, to the financial benefit of the legislator. Subsections 1-84(b), 1-84(c), id.

Such cases, previously considered by the Ethics Commission, as the senior employee in the Department of Consumer Protection who was paid to serve as a television commentator on consumer issues are readily distinguishable. See Advisory Opinion Opinion No. 80-9, 41 Conn. L.J. No. 39, p. 23. (Mar. 25, 1980). In that instance the State employee used her education and experience in consumer affairs in both her State position and in her compensated outside employment. As a television commentator, however, she was not identified as a senior employee of the Department of Consumer Protection. She was simply offered as someone experienced in consumer affairs. So long as she kept in mind the particulars of the Code of Ethics for Public Officials during the course of her work as a State employee and as a commentator, violations of the Code seemed avoidable. Here, in the unlikely event that a legislator was not identified as such in his articles or commentary, his identity as a member of the General Assembly would, nevertheless, be a matter of common knowledge. Public confidence in the integrity of the legislative process would still be weakened.

It seems clear that the Code of Ethics for Public Officials prevents a legislator from entering into a program of writing, or acting as a commentator, concerning the General Assembly if he is compensated for his services. On the other hand, the Code has no application if he is not paid. The Code would also allow one or a few appearances as a guest on a program, or acceptance infrequently of an offer to do a guest column or article, even though an honorarium is provided. Subsection 1-83(b)(2), General Statutes. It is the continuing, planned nature of the legislator's proposed activity as an author or commentator which would cause problems under the Code of Ethics for Public Officials.

The other statute administered by the Ethics Commission, the Code of Ethics for Lobbyists, Chapter 10, Part II, General Statutes, has no application to the situation, provided the legislator is unpaid for his services as an author or commentator. Should he both be paid and, in the course of his services, lobby on behalf of the person compensating him, his problems still would be more with the Code of Ethics for Public Officials than the Code of Ethics for Lobbyists, insofar as the Ethics Commission is concerned, although violations of section 1-97, General Statutes, part of the latter Code, also could occur. Further, the legislator, his employer,

or both, might end up in violation of other statutory provisions, particularly sections 1-102 and 2-16, General Statutes, and possibly rules enacted by the General Assembly or one of its houses.

By order of the Commission,



Rev. Thomas J. Lynch
Chairman

Dated September 11, 1981

