



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 85-6

Legislator's Outside Employment

A legislator is licensed by the State of Connecticut as a journeyman artisan, permitting the licensee to perform any type of work in the trade under a licensed contractor. Once the General Assembly session ends, the legislator wishes to resume employment in the trade. The Commission has been asked whether the legislator would face a potential conflict of interest if employed on a project substantially funded by State funds, or hired by a contractor or developer who is represented by lobbyists at the State Capitol.

Union members in the legislator's trade do not enter into employment directly. The union has a contract with all union contractors in the geographic area. Terms of employment are contained in the contract. A union member who is unemployed places himself on the union's out-of-work list. Contractors seeking journeymen with the license held by the legislator contact the union's business manager. The business manager selects union members with the appropriate license from the out-of-work list on the basis of picking first the person who has been out of work longest. A union member selected for employment then is paid by the contractor at the hourly rate in the contract which has been made by the union.

Only a few sections of the Code of Ethics for Public Officials, (Chapter 10, Part I, General Statutes) apply to the situation described. Subsection 1-84(b), General Statutes, forbids a public official to accept employment which will impair his independence of judgment or require or induce him to disclose confidential information acquired in State service. This provision would prevent a legislator from accepting employment with an employer or on a project if the employer or the project were a burning issue before the General Assembly, for impairment of independence of judgment could occur. If an employer or a project were to become a matter of legislative interest after the legislator was on a job, section 1-86 provides a method for facing a potential conflict of interest. The legislator could refrain from taking any action concerning the project or the employer, or file a statement explaining that despite the potential conflict of interest, the legislator can act fairly, objectively, and in the public interest.

A public official may not use his office or confidential information gained in it for private gain. Subsections 1-84(a), 1-84(c), General Statutes. There seems little

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possibility of that here, if the union's employment system operates as stated. Even if the legislator were to push a particular construction project through the General Assembly, there is no assurance that the legislator would be hired to work on it unless the project was so mammoth that it absorbed every artisan in the area who had the same license as the legislator. As required by section 1-86, General Statutes, the legislator should take no official action on projects of that significance in the geographic area where the legislator's union has contracts, or file the statement described in that section. The appearance of having taken personal action for private benefit could not be avoided by refusing to work on the State-approved project. Obviously, if all other journeymen in the trade were committed to the project, the legislator's services as an artisan would be in great demand by other contractors. Section 1-86 precautions apply only to projects specifically considered by the legislature. No action under the Code seems required if funds approved by the legislature are committed to a project developed after the funds become available.

With regard to employment by one who retains legislative lobbyists, neither the Code of Ethics for Public Officials nor the Code of Ethics for Lobbyists (Chapter 10, Part II, General Statutes) prohibits such a situation. The provisions of the Code of Ethics for Public Officials previously discussed, subsections 1-84(a) through 1-84(c), still apply, and no differently than if the employer did not retain lobbyists at the State Capitol.

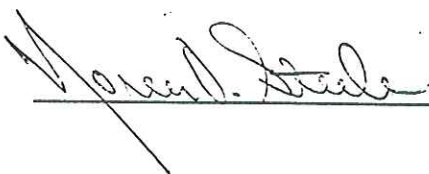
It is likely that an additional provision, from the Code of Ethics for Lobbyists, would have to be observed. If a person does lobbying of any consequence the person as well as the individual lobbyists, must register and also becomes a "lobbyist". Subsection 1-94(b), General Statutes. A lobbyist may not "[do] anything with the purpose of placing any public official under personal obligation". Subdivision 1-97(c)(1), General Statutes. Questions under this provision would be raised if, for example, when job opportunities in the legislator's trade were scarce, employment was offered although really there was no work to be done, or continued after all work in the trade had been completed.

A lobbyist providing, and the legislator accepting, employment when services were not needed would also constitute a violation of the reciprocal provisions in the Codes of Ethics regarding gifts by a registrant to a public official, if the legislator knew the employer was a lobbyist and the

compensation involved was \$50 or more. Subsections 1-84(j), 1-97(a), General Statutes.

In summary, in most cases the legislator may accept legitimate employment on a project substantially funded by State funds, and with an employer who retains lobbyists at the State Capitol, unless the employment is linked to pending legislation. As is the case of any legislator who engages in outside employment, working for a particular employer or on a particular project may require the legislator to take action pursuant to section 1-86, General Statutes, on certain legislative matters. Cf. Advisory Opinion Number 80-10, 41 Conn. L.J. No. 41, p. 5 (April 8, 1980).

By order of the Commission,



Dated 2/3/85

