



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 84-12

A Legislator's Firm Providing Services To Clients Which Interact With The State

A State legislator's accounting firm has merged with another. As a result, the legislator's new firm has as clients various agencies which interact with the State. The legislator has asked whether his firm may perform audits of the agencies in question without his violating the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

The legislator's firm currently has contracts to audit: (1) Area Cooperative Educational Services; (2) Valley Regional Planning Agency; and (3) Regional Planning Agency of South Central Connecticut.

The Area Cooperative Educational Services of Hamden is a non-profit, educational organization established and operated as a regional education service center pursuant to Chapter 164, Part IVa, General Statutes. Essentially, it is designed to service the special educational needs of its area towns. On occasion, the organization provides services to the State. The vast majority of its funding is derived from a Federal vocational education grant and a fixed State grant, both funnelled through the State Department of Education. 20 U.S.C.A. Section 2301 et seq.; subsection 10-66j(b), General Statutes. The boards of all regional education service centers are required to undergo annual audit. Section 10-66g, General Statutes.

The Valley Regional Planning Agency and the Regional Planning Agency of South Central Connecticut are regional planning agencies, established by area municipalities as authorized by Chapter 127, General Statutes. Primarily, these agencies draw up regional development plans, and provide assistance to the municipalities in the fields of planning, development, and operation of public facilities and services. Sections 8-35a, b, c, and d, *id.* Both agencies receive a majority of funding from Federal sources, either directly or through the State Department of Transportation. Both also receive State grant in aid monies, according to statutory formulae, and obtain funding from various State agencies on a project by project basis. All regional planning agencies are required to undergo

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annual audit. Subsection 8-34a(4), id.

As a member of the General Assembly, the legislator is a public official subject to the requirements of the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes. Subsection 1-79(j), id. His accounting firm is a business with which he is associated as defined by subsection 1-79(a), id. In pertinent part, the Code states that a public official must not engage in outside business or professional activity such that he will have reason to believe or expect that he will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity, unless the gain or loss affects him as a member of his business, profession, occupation, or group no differently than any other member of his business, profession, occupation, or group. Subsection 1-84(a), Section 1-85, id. If required to take official action which will have a consequential impact on his financial interest or that of his firm and if the interest is distinct from that of a substantial segment of the general public, the legislator must either abstain from taking action on the matter or file a statement, pursuant to Section 1-86, id., before acting. He may not accept employment which will impair his independence of judgment as a public official or induce him to disclose confidential information gained in State service. Subsection 1-84(b), id. He may not use his State office, or confidential information gained in it, for his financial benefit or that of his firm. Subsection 1-84(c), id. Neither he nor anyone in his firm may represent others for compensation before any of the agencies listed in subsection 1-84(d), id. (Banking Department, Claims Commissioner, Department of Liquor Control, Department of Motor Vehicles, State Insurance Purchasing Board, Department of Environmental Protection, Division of Special Revenue within the Department of Revenue Services, Gaming Policy Board within the Department of Revenue Services or the Connecticut Real Estate Commission).


Applying these provisions to the instant situation, continuation of the audits in question by the legislator's firm appears to present no insurmountable problems under the Code. Considering the limited extent of the client agencies' contacts with the State, and the legislator's lack of any specific, on-going responsibility as a public official for these agencies' activities, no inherent conflicts of interest exist. Given these facts, it is unlikely that the private employment will influence his independence of judgment as a legislator, cause him to use or disclose confidential information gained in public office, or raise any expectation of a direct monetary gain by reason of official action.

If a possible conflict should arise in the General Assembly as a result of the accounting firm's business relationship with the three agencies, the legislator states that he will ask to be excused from voting. This procedure, or the filing of the disclosure statement required by Section 1-86, supra, will avoid any potential conflict of interest problems in the Legislature.

The legislator must also remain sensitive to the requirements of subsection 1-84(d), supra. Specifically, he must ensure that the audits provided to his firm's clients are not intended for subsequent submission to any of the 1-84(d) agencies, since such a use would amount to a prohibited action by the legislator. Advisory Opinion No. 79-6, 40 Conn. L.J. No. 38, p. 27 (March 20, 1979); Advisory Opinion No. 84-8, 45 Conn. L. J. No. 45, p. 23C (May 8, 1984).

In summary, use of Section 1-86 procedures to avoid potential conflicts before the General Assembly and cognizance of the prohibitions of subsection 1-84(d) should allow the legislator's accounting firm to continue servicing the accounts in question without the legislator risking violation of the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

By order of the Commission,



Lucille E. Brown
Chairperson

Dated 3 October 1984

