



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 88-13

Application Of Section 1-84b, General Statutes, To A  
Former Department of Environmental Protection Employee

Mr. Barry Giroux, a State employee presently working in the Hazardous Waste Management Section of the Department of Environmental Protection (DEP), has asked the Ethics Commission's advice regarding the following situation.

Mr. Giroux's State job title is principal sanitary engineer. His primary responsibilities include supervision of the permits group of the Hazardous Waste Management Section. Operating under Chapter 445, General Statutes, the permits group is initially responsible for the issuance and administration of hazardous waste and waste oil transportation, treatment, storage, and disposal facility permits in the State. It is also responsible for review and approval of closure plans for these facilities. In addition, Mr. Giroux has significant oversight responsibility with regard to implementation of the Federal Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.) at the State level.

Mr. Giroux has recently accepted a position as coordinator of remedial services at EWR, Inc. of Waterbury, Connecticut. EWR is a commercial hazardous waste and waste oil management facility. It holds several permits issued by DEP including a hazardous waste management permit that Mr. Giroux was involved in writing. Mr. Giroux's new job primarily involves managing hazardous waste clean-ups at off-site facilities.

Mr. Giroux has asked how Section 1-84b, General Statutes, affects his new employment. Specifically, he has asked how the prohibitions of that Section would apply to the following situations:

1. EWR in performing off-site clean-ups may submit

engineering plans describing the proposed clean-up methods to DEP for review and approval. The off-site facility in many instances may be performing the clean-up to comply with a DEP order. Mr. Giroux queries as to whether he may write the whole plan or portions thereof, may only implement the plan, may put his professional engineer's stamp on plan documents, or may transmit the plan to DEP under his signature.

2. Many off-site clean-ups may require that permits be obtained from DEP prior to implementing clean-up procedures. Mr. Giroux asks to what extent can he be involved in obtaining these permits.

3. As part of the engineering services offered at EWR Mr. Giroux may prepare plans to aid a customer in complying with regulations. He asks whether he may prepare these plans which will be submitted to DEP for review and approval, and which may be submitted to achieve compliance with a DEP order.

4. Another part of EWR's engineering services may involve the preparation of permit applications for a customer. Mr. Giroux wishes to know whether he may prepare these applications which would be submitted to DEP for review and approval.

Effective January 7, 1987, Section 1-84b contains most of the post-State employment restrictions of the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes. In pertinent part, 1-84b states that:

A former executive branch State employee may never represent anyone, other than the State, concerning any particular matter in which the employee participated personally and substantially while in State service, if it is one in which the State has a substantial interest. Subsection 1-84b(a), General Statutes.

In addition, for one year after leaving State service a former executive branch State employee may not represent anyone, other than the State, for compensation before his former agency concerning any matter in which the State has a substantial interest. Id. at subsection (b).

Applying these provisions to the questions at hand:

1. In general, Mr. Giroux may write and implement hazardous waste clean-up plans which require DEP review and approval. However, he may not, for one year, for compensation, place his professional engineer's stamp on plan documents, nor may he submit such plans to DEP under his signature. Subsection

1-84b(b) was enacted to prevent former State officials and employees from using contacts and influence gained during State service to obtain an improper advantage in their subsequent compensated dealings with their former agency. Either Mr. Giroux's professional stamp or his signature on submissions to DEP will reveal his identity and purpose to former colleagues; and, therefore, provide an opportunity for improper advantage. Such actions amount to prohibited representation under 1-84b(b), as do any other actions which reveal the former State servant's identity and role to his former agency. See, Ethics Commission Advisory Opinion No. 87-8, 49 Conn. L.J. No. 4, p. 1C (July 28, 1987).

In addition, under subsection 1-84b(a), Mr. Giroux may never represent anyone, other than the State, in any forum, if the representation involves a matter in which he participated personally and substantially while in State service and the State retains a substantial interest in the matter. For example, if, as a State employee, Mr. Giroux was personally and substantially involved in the review and approval of a particular clean-up plan, he may never represent a party, other than the State, in any subsequent proceedings concerning that plan.

2. The extent to which Mr. Giroux can be involved in obtaining permits from DEP is governed by the same parameters set forth in answer to question no. 1, supra.

3. and 4. As delineated in answer to question no. 1, supra, Mr. Giroux may prepare compliance plans and permit applications for customers, notwithstanding the fact that these documents will be submitted to DEP for review and approval. However, he may not, for one year, for compensation, engage in representation before DEP with regard to these plans and applications.

Furthermore, he may never engage in such representation before any entity, if as a State employee he participated personally and substantially in prior work on these matters.

The State has often expressed its vital interest in protecting Connecticut's environment and citizens from the perils of hazardous waste. See, e.g., Section 22a-114, General Statutes. Therefore, all categories of plans, permits, and applications previously discussed in this Opinion are to be considered matters "...in which the state has a substantial interest" as that term is used in subsections 1-84b(a) and (b), General Statutes.

Lastly, it should be remembered that former executive and legislative branch public officials and State employees may never use confidential information, i.e., information not generally available to the public, for the private financial benefit of anyone. Section 1-84a, General Statutes.

By order of the Commission,



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William A. Elrick  
Chairperson

Dated 8-1-88