

## OPINION NO. 96

A legislator requested guidelines because of his employment by an association. He has been affiliated with the association for some time and has served as their liaison with the legislature. He will not now have such liaison duties. He has stated that he will take a leave of absence without pay from his job with the association during the legislative session.

He was advised to bear in mind that even though he received no compensation from the association during the legislative session, his knowledge of their goals with regard to legislation would require that he guard against even the appearance of a violation of HRS, §84-13, relating to fair treatment. This section prohibits, among other things, a legislator from using the physical facilities of his office for his private interests and employment. He must not use his membership on legislative committees to promote the drafting or passage of bills which are of specific benefit to his outside interests or sources of employment. See Opinions Nos. 1, 26-28, and 66.

Moreover, he should be aware that any bonus or extra compensation from his private employer in the form of travel or other expenses granted as a reward for legislative action would be a violation of §84-11, relating to gifts.

There are some interests which coincide with a substantial number of a legislator's constituents; there are also areas in which a legislator will have an interest *qua* citizen, e.g., voting rights, taxes, etc. In both of these cases he should vote on related legislation. Not to do so would, in the first case, be a compromise of his duty to represent his constituents and in the second a surrender of his fundamental rights as a citizen. These are unavoidable conflicts.

However, there are times when an employment or other private interest will be directly and specifically affected by legislation. In some instances, especially when the conflict is an avoidable one, the legislator should consider divestment; but at the very least, he should refrain from taking official action on the legislation in the form of drafting, debating or lobbying in committee.

Before participating in any floor action involving benefits which would accrue to members of his association, he should first publicly disclose the situation to the presiding officer of his legislative body or the appropriate committee chairman. This is particularly important in view of the fact that the approval of his leave of absence by the association could be interpreted to be their expectation of benefiting by his membership in the legislature. Even if this is not the case, any favorable action by him on legislative matters of particular interest to the association would tend to encourage that conclusion by the public.

It is not the intention of the Ethics Commission to make public service an unreasonable sacrifice. To the end that public confidence in public employees be nurtured, however, every public servant must exercise great diligence and discretion to avoid even the appearance of unethical conduct.

Dated: Honolulu, Hawaii, January 28, 1971.

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