

## OPINION NO. 149

In view of the 1972 amendments to the State ethics law, the subject of Opinion No. 96 requested a review of the opinion. The only change in factual circumstance was that he was now the director of the association. Under the association's by-laws, the director must devote his entire time to the interests of the association. He is responsible to the board of trustees and is an ex-officio member without vote on all of the committees of the association. He is also responsible for selecting the personnel, for maintaining the membership records of the association and the reports of all committees. He is a regular delegate to the association's convention and is responsible for keeping all members informed of the activities of the association and pleading their cause individually or collectively as occasion demands.

We reaffirmed Opinion No. 96 as to those paragraphs discussing the matter of gifts (HRS, §84-11) and discussing prohibitions against the use of physical facilities of a state office for the benefit of one's private business or employer (HRS, §84-13). We noted this prohibition was more specifically spelled out in HRS, §84-13(3), amended June 1972.

We amended the portions of the opinion relating to restrictions upon his functions in the legislature. The 1972 legislature had specifically expressed the intent that HRS, §84-13, should not be construed to prohibit a legislator from introducing bills and resolutions, serving on committees or making statements or taking action in the exercise of his legislative functions regardless of the conflict involved. Since the law also required that a legislator file a full and complete public disclosure of the nature and extent of his interests or transactions which may be affected by state action, we presumed that it was the policy of the legislature that a legislator's activities in the legislature be reviewed by the electorate. We expressed the belief that the public has the right to know the nature and extent of the private financial interests of public officials. Heretofore, a disclosure by a legislator to the Ethics Commission was confidential by law. Now, however, to be in compliance with the law, a legislator would have to file the nature and extent of his financial interests with both the Ethics Commission and the presiding officer of his legislative body. In the case of this legislator, we held that he must disclose his employment interest because it was a financial interest within the meaning of the law. Since it was essentially a full-time employment, which may be affected by or conflict with the responsibilities of his public office, the public should have knowledge of it. Moreover, it was a financial interest which would be affected by a state agency in the sense that he has had to, or will have to, appear before state agencies on behalf of members or affiliate organizations; and some individuals might judge his effectiveness as director by his success or failure before state agencies.

Although the amended ethics law specifically prohibits the Commission from reviewing a legislator's activity in the legislature, we noted that the Commission may review the legislator's activities in his private capacity or before other governmental agencies. We pointed out that HRS, §84-13, was still applicable to him if, for example, he were to use his position as a legislator to secure special treatment for the association, its members or himself in his appearances before other government agencies. This was particularly important in view of the fact that all state government agencies and some county agencies look to the legislature for funding or legislative amendment to the enabling statutes. We noted that the statute did not prohibit such appearances entirely, but we cautioned that the opportunity for violation of HRS, §84-13, was particularly great where the appearance or assistance involved or would involve discretionary action upon a matter by the State or county agency. In this regard, Opinion No. 70 and part II of Opinions Nos. 26-28

were still applicable and helpful to him. Related to this appearance or assistance to his private employer, we called his attention to HRS, §84-14(c) and (d), which prohibited his assistance before state or county agencies when it involved a contingent compensation, or his assistance before the legislature for any compensation or fee. We mentioned this in passing since it was our understanding that the director was not involved in lobbying activities before the legislature and that his responsibilities did not require such appearances.

Dated: Honolulu, Hawaii, October 11, 1972.

STATE ETHICS COMMISSION  
Walters K. Eli, Vice Chairman  
Gwendolyn B. Bailey, Commissioner  
Audrey P. Bliss, Commissioner  
Fred S. Ida, Commissioner

Note: Chairman Vernon F. L. Char was excused from the meeting at which this opinion was considered.