

OPINION NO. 303

A member of the state legislature interested in forming a corporation for the purpose of leasing certain state lands on which he intended to operate a business asked the Commission to determine if his seeking and entering into the lease for the land would be in violation of chapter 84, HRS.

The most applicable section of the statute to this question was HRS §84-15(a) (Supp. 1975). That section states:

A state agency shall not enter into any contract with a legislator ... or with a business in which a legislator ... has a controlling interest, involving services or property in excess of a value of \$1,000 unless that contract is made after public notice and competitive bidding.

The procedures used by the Department of Land and Natural Resources in leasing state lands in and of themselves required any lessee of state lands to conform to the bidding requirement set forth in HRS §84-15(a). Leases are entered into by the State only after a public auction of the property involved has been advertised in a paper of general circulation for three weeks prior to its being held. Therefore, if the legislator were to follow this procedure in obtaining the lease, there would be no violation of HRS §84-15(a).

We pointed out that, generally, the acquisition of a financial interest by a state employee was subject to the restrictions of HRS §84-14(b) (Supp. 1975) which prohibits the acquisition of financial interests which may be involved in action to be taken by the employee. Because legislators, however, were not subject to this section of the ethics code, we did not look into this aspect of his proposed venture in detail. It did not appear, however, that, as a legislator, he would be taking action that would involve either the lease or the business.

Finally, as in all cases where legislators or employees acquire new business interests, we reminded him that HRS §84-13 prohibited him from using state time and equipment for private business purposes.

We commended him for requesting an opinion on this question before entering into the venture.

Dated: Honolulu, Hawaii, June 7, 1977.

STATE ETHICS COMMISSION
Paul C.T. Loo, Chairman
I.B. Peterson, Vice Chairman
Dorothy K. Ching, Commissioner

Note: Commissioners Audrey P. Bliss and Gary B.K.T. Lee were excused from the meeting at which this opinion was considered.