

OPINION NOS. 371 AND 372

Two state employees were appointed to serve on a state board which affected legislators; they asked this Commission if a conflict existed in their membership on this board inasmuch as their salaries were paid through budgets approved by the Legislature.

We stated to them that the conflicts of interests section set out in HRS §84-14(b) prohibits an employee from acquiring a financial interest in a business or other undertaking which may be directly involved in official action to be taken by him. A state board or commission is not a business or undertaking for purposes of the code, but is, instead, a state agency. Consequently, a state employee does not acquire a financial interest in a business or undertaking by becoming a member of a state board or commission. Therefore, HRS §84-14(b) would not prohibit a state employee from being appointed to a state board or commission.

We did point out that other sections of the code might in certain circumstances make an employee's sitting on a state board or commission unworkable in the sense that the employee might have to abstain from taking action in so many instances that he or she would be an ineffectual member. The section involved in that instance would be HRS §84-14(a). We did not see that situation here. These individuals needed only to abstain in instances where their action on the board would directly affect a financial interest of theirs. Given the responsibilities of this board, we saw no likelihood that such abstention would be required.

We indicated our appreciation for their concern in this matter.

Dated: Honolulu, Hawaii, March 19, 1979.

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

Note: Commissioner Audrey P. Bliss was excused from the meeting at which this opinion was considered. There was one vacancy on the Commission.