

7203 February



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

July 19, 2001

The Honorable John L. Scott, Jr.  
Member, House of Representatives  
1107 Anthony Avenue  
Columbia, South Carolina 29204

**RE: Informal Opinion**

Dear Representative Scott,

By your letter of July 12, 2001, you have requested an opinion from this Office concerning the activities of a private consulting firm owned in part by a State legislator. Specifically you ask:

Can a state legislator who is partial owner and operator of a consulting firm have this firm write a proposal and assist one state agency in their efforts to secure federal funds from another state agency? Also, if this proposal is funded, can this same consulting firm receive fees while managing the program?

Based upon a review of the State Ethics Act, codified at South Carolina Code of Laws Sections 8-13-100, *et seq.*, it appears that there is no absolute prohibition to the proposed arrangement between the State representative's consulting firm and the writing of a proposal assisting a state agency in receiving federal funds. However, certain provisions of the Ethics Act must be followed to avoid conflicts therewith.

In particular, the State representative must avoid the use of his official position or office to obtain financial gain for himself. See S.C. CODE ANN. § 8-13-700. Furthermore, the representative should not solicit or receive any money in addition to that received by him in his official capacity for advice or assistance which would be included in the normal course of the representative's public duties. See S.C. CODE ANN. § 8-13-705. This means that any action taken by the representative must be unrelated to the activities performed by the representative in his official capacity as a State representative. Furthermore, pursuant to the provisions of Section 8-13-735, the representative cannot use or disclose any confidential information gained by him in the course of his official activities in a way that would result in financial gain for himself or for his consulting firm.

*Resent Scott*

Representative Scott  
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If the representative is faced with a situation, in the discharge of his official duties, which would require him to take action or make a decision which would substantially affect his personal financial interest or those of the consulting firm, the representative must comply with the provisions of Section 8-13-700. In sum, these provisions require the preparation of a written statement describing the matter requiring action, and the nature of the potential conflict of interest with respect to that action. The statement is to be delivered to the presiding officer of the House, and he shall be excused from votes, deliberations, and other actions on the matter on which a potential conflict of interest exists.

As long as the representative complies with the restrictions set forth in the State Ethics Act, it appears that the legislator and his consulting firm may enter into the proposed arrangement with the state agency. Furthermore, as you know, the House of Representatives Ethics Committee is the designated appropriate supervisory office under the Ethics Act for State representatives. As this Committee is charged with supervisory enforcement of the Act, we would defer to its findings on the propriety of the activities of House members.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Susannah Cole  
Assistant Attorney General