

1978 WL 35150 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 4, 1978

\*1 Honorable Patrick B. Harris  
Chairman  
House Legislative Ethics Committee  
P. O. Box 11867  
Columbia, South Carolina 29211

Dear Representative Harris:

Attorney General McLeod has asked me to respond to your recent letter concerning an opinion about the State Ethics Act.

In particular, you have asked whether or not the State Ethics Act, Code of Laws of South Carolina, 1976, Sec. 8-13-10, et seq., prohibits a member of the House of Representatives from providing legal representation for a State agency.

I have examined the State Ethics Act and discussed its provisions with Gary Baker, Executive Director of the State Ethics Commission. Based on this analysis, it is my opinion that the State Ethics Act does not prohibit a member of the General Assembly from providing legal representation to a State agency, on a retained basis or on a case-by-case basis. However, certain provisions of the Ethics Act must be followed to avoid conflict therewith.

In particular, a representative who is retained as counsel for a State agency must avoid the use of his official position or office to obtain financial gain for himself. This is required by Sec. 8-13-410 of the Act. Further, the representative shall not solicit or receive any money in addition to that received by him in his official capacity for advice or assistance given in the course of the representative's public duties. This means that the representation provided by the representative must be unrelated to the activities performed by the representative in his official capacity as a State representative. This is a requirement of Sec. 8-13-430 of the Act.

Further, under the provisions of Sec. 8-13-440, the representative cannot use or disclose any confidential information gained by him in the course of his official activities in any way that would result in financial gain for himself or for his client.

If the representative is faced with a situation, in the discharge of his official duties, which requires him to take action or make a decision which would substantially affect directly his personal financial interest, the representative must comply with the provisions of Sec. 8-13-460. In summary, 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 such action. This statement is to be delivered to the presiding officer of the House, and if the legislator requests, he shall be excused from votes, deliberations and other actions on the matter in which a potential conflict of interest exists.

Finally, the legislator must list any legal fees received from State agencies on his statement of economic interest, in harmony with Sec. 8-13-820.

As long as the legislator complies with the restrictions set forth in the State Ethics Act, it is the opinion of this Office that he may be retained as counsel to represent a State agency.

\*2 I hope this information will be helpful to you, and with kind regards, I am  
Sincerely,

George C. Beighley  
Assistant Attorney General

1978 WL 35150 (S.C.A.G.)

---

End of Document

© 2017 Thomson Reuters. No claim to original U.S. Government Works.