

SUBJECT: POST-EMPLOYMENT PROVISIONS OF ETHICS REFORM ACT

SUMMARY:

An employee of a regulatory agency who has no regulatory jurisdiction over a federal installation would not be prohibited from accepting employment with that installation.

QUESTION:

An employee of a regulatory agency is aware of an opening at a federal installation with responsibility for some activities which are regulated by the employee's agency. The employee has not been involved with those regulatory activities. The employee questions whether acceptance of the position would violate the Ethics Reform Act.

DISCUSSION:

This opinion is rendered in response to a letter dated January 23, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-755 provides:

A former public official, former public member, or former public employee holding public office, membership, or employment on or after January 1, 1992, may not for a period of one year after terminating his public service or employment:

- (1) serve as a lobbyist or represent clients before the agency or department on which he formerly served in a matter which he directly and substantially participated during his public service or employment; or
- (2) accept employment if the employment:
  - (a) is from a person who is regulated by the agency or department on which the former public official, former public member, or former public employee served or was employed; and
  - (b) involves a matter in which the former public official, former public member, or former public employee directly and substantially participated during his public service or public employment.

Section 8-13-755(2) was intended to prohibit the "revolving door" whereby a regulator leaves public service and begins work with a regulated person on matters in which he had participated as a regulator. Employment could not be entered into with a regulatee with responsibilities including those specific matters with which the person was engaged while with the regulatory agency. Absent responsibilities on those specific matters, there would not be a prohibition against such employment.