

SUBJECT: GENERAL ASSEMBLY EMPLOYEE RUNNING FOR POSITION ON PUBLIC SERVICE COMMISSION

SUMMARY: A public employee is not prohibited by the Ethics Reform Act from running for public office. Nor are there any requirements in the Ethics Reform Act which requires a public employee to resign their public position in order to run for public office. Agencies may have restrictions or prohibitions concerning an employee's candidacy, however, no such restriction or prohibition exists in the Ethics Reform Act.

QUESTION:

A former employee of the House of Representatives Labor, Commerce and Industry Committee questions whether there are any statutory prohibitions against her as a public employee but also as a former public employee running for election by the General Assembly for a seat on the SC Public Service Commission. She questions whether her eligibility to run would or would not be affected by her previous employment and whether she was required to resign her position in order to become a candidate.

DISCUSSION:

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 2-17-5 et seq. and 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.

The State Ethics Commission knows of no reason why a public employee could not simultaneously run for public office. SEC AO93-041. There are no prohibitions in the Ethics Reform Act addressing who may run for or hold any public office. Nor are there any requirements in the Ethics Reform Act which requires a public employee to resign their public position in order to run for public office. The State Ethics Commission has previously advised that agencies may have restrictions or prohibitions concerning an employee's candidacy, however, no such restriction or prohibition exists in the Ethics Reform Act.

The Commission calls attention to Section 8-13-755(1) which provides in part as follows:

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

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formerly served in a matter which he directly and substantially participated during his public service or employment; or...

In a November 22, 1993 informal opinion, we advised that the term "matter" as used in Section 8-13-755 means a discrete, identifiable transaction or conduct involving a particular situation and specific parties. It is our opinion that the definition of "matter" emphasizes that the employment situation applies to specific cases and not general areas of activity. So long as the issues are ones in which she did not directly and substantially participate while employed by the House, she would not be prohibited from activities affecting the House of Representatives Labor, Commerce, and Industry Committee.