



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 87-5


Legislation Generating Opportunities for Legislator's
Spouse to Contract with State

During the past year, prior to the election of a legislator to his first term, the legislator's spouse provided consulting services, as a subcontractor, to several State departments and a State commission. Now the spouse is considering offering her professional services directly to the State by participating in the competitive bidding process for State contracts, some of which may be the result of legislative action in which the legislator took part. (The legislator's committee assignments do not appear related to the areas of his spouse's expertise, although he does serve on the Committee on Appropriations.) The legislator has asked whether participating in the enactment of legislation authorizing or allowing a contract for which his spouse competes, on the basis of her expertise and professional qualifications, poses a conflict of interests under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes.

Three sections of the Code of Ethics relate to the situation presented. The first, subsection 1-84(i), General Statutes, applies to the spouses. With exceptions not pertinent that subsection prohibits a member of a public official's immediate family (which the spouse would be, subsection 1-79(e), General Statutes) from entering into a contract with the State, valued at \$100 or more, unless the contract has been awarded through an open and public process, including prior public offer and subsequent public disclosure of all proposals considered and the contract awarded. Subsection 1-84(i) does not prevent the spouse from competing for State contracts which are awarded through the open and public process described in the subsection.

A second provision, subsection 1-84(c), General Statutes, states that a public official, such as the legislator (subsection 1-79(j), General Statutes), may not use his public office, or confidential information acquired in and by virtue of it, to obtain financial gain for his spouse, among others. That could apply in several ways. The legislator may not take action on legislation if there is an understanding that his spouse will get a contract, resulting from the legislation, if the legislation is enacted. (That could be a violation of subsection 1-84(g), General Statutes, a bribery provision, as

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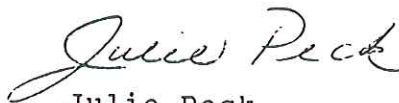
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well as of subsection 1-84(c).) Once legislation generating contracts has been enacted, the legislator may not use his influence with the State agency letting the contract to award it to his spouse. He may not use information not available to the public, acquired because he is a legislator, to give his spouse an advantage in being awarded a State contract. However, the mere fact, alone, that the legislator took official action on legislation which resulted in a contract does not prevent his wife from competing for it.

The third Code provision would apply if the legislator encounters legislation which he perceives would affect the financial interests of his spouse, in her professional capacity, in some consequential way. This might occur if his spouse were uniquely qualified to fulfil a contract resulting from the legislation, so that it was likely that she would get the contract. It could possibly be that legislation was so massively funded that everyone with expertise in his spouse's area was likely to be given a consulting contract. Another example would be legislation requiring that consultants in his spouse's area of expertise be certified in order to contract with the State, and all could not qualify. The possibility and magnitude of impact on his spouse's financial affairs can be determined best, and sometimes only, by the legislator, who is aware of the provisions of a legislative proposal and his spouse's business situation. See Ethics Commission Advisory Opinions No. 79-14 (amended), 41 Conn. L.J. No. 49, p. 38 (6/3/80) and 83-16, 45 Conn. L.J. No. 1, p. 5B (7/5/83). When the legislator appreciates that taking official action on legislation will affect his wife's financial interests in a consequential way he may abstain from any action in the matter, or he may act after filing a written statement. Section 1-86, General Statutes.

By order of the Commission,



Julie Peck
Chairperson

Dated April 11, 1987