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THE JOINT LEGISLATIVE ETHICS COMMITTEE

Advisory Opinion 95-009
June 14, 1995

Syllabus by the Committee:

Division (B) of section 102.04 of the Revised Code prohibits a member of the General Assembly from selling, or agreeing to sell, goods or services to the General Assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, except through competitive bidding.

Pursuant to sections 101.34 and 102.08 of the Revised Code that direct the Joint Legislative Ethics Committee to act as an advisory body to the members and employees of the General Assembly on questions relating to ethics, conflicts of interest, and financial disclosure, the Joint Legislative Ethics Committee advises the members of the General Assembly on the following question: Can a member of the General Assembly sell, through the member's non-legislative business, services to a state college or university?

The member owns a time, temperature, and weather service that provides advertising media for area businesses. Businesses buy advertising messages on the service which are heard by callers before they receive the time, temperature, and weather service. The member owned the business prior to becoming a member of the General Assembly and the college has been a customer of the business for several years.

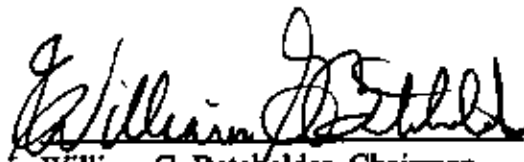
The selling of goods or services by an elected official implicates R.C. 102.04(B) which provides:

(B) Except as provided in division (D) of this section, no person elected or appointed to an office of or employed by the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts, shall sell or agree to sell, except through competitive bidding, any goods or services to the general assembly or any department, division, institution, instrumentality, board, commission, or bureau of the state, excluding the courts.

As an elected official of the General Assembly, the member is subject to the prohibitions contained in 102.04(B). The air-time that is provided to the customer is a service and the state college is a "department, division, institution, instrumentality, board, commission, or bureau of the state." Therefore, the member is prohibited from selling, or agreeing to sell, goods or services to the state college, except through competitive bidding. Division (D) of Section 102.04 of the Revised Code provides an exception to the prohibition contained in 102.04(B); however, it is applicable only to public employees and persons who are appointed to a non-elective office and who sell goods or services to agencies other than their own. Thus, the exception enumerated in R.C. 102.04(D) is not available to members of the General Assembly and the prohibition contained in R.C. 102.04(B) is absolute, unless the goods or services are let by competitive bidding.

Accordingly, the Committee finds, and the member is so advised, that the member is prohibited, pursuant to R.C. 102.04(B), from selling, or agreeing to sell, goods or services to a state college except through competitive bidding.

This advisory opinion is based upon the facts presented. It is limited to questions arising under Chapter 102. and Sections 2921.42 and 2921.43 of the Revised Code and does not purport to interpret other laws or rules.



William G. Batchelder, Chairman
Joint Legislative Ethics Committee