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THE JOINT LEGISLATIVE ETHICS COMMITTEE

Advisory Opinion 95-018
December 12, 1995

Syllabus by the Committee:

- (1) Pursuant to R.C. 102.03(A)(4), a member or employee of the General Assembly who concludes his or her employment or service with the General Assembly after December 31, 1995, is prohibited from representing a person before the General Assembly, any committee of the General Assembly, or the controlling board on the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments for the period of one year after separation from the General Assembly;
- (2) For purposes of R.C. 102.03(A)(4), a member or employee of the General Assembly who takes a leave of absence has not concluded his or her service or employment with the General Assembly; and
- (3) A member or employee of the General Assembly is not prohibited from representing a state agency or political subdivision of the state before the General Assembly, any committee of the General Assembly, or the controlling board on the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments after the conclusion of the member or employees service or employment with the General Assembly.

Jurisdiction and Question Presented

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 and employees of the General Assembly on the following question: What are the limitations set forth in R.C. 102.03(A)(4) following the conclusion of the employment or service of a member or employee of the General Assembly?

Background

With the passage of H.B. 492, the General Assembly enacted R.C. 102.03(A)(4), commonly referred to as the revolving door statute. R.C. 102.03(A)(4) states:

(4) For a period of one year after the conclusion of his employment or service as a member or employee of the general assembly, no former member or employee of the general assembly shall represent, or act in a representative capacity for, any person on any matter before the general assembly, any committee of the general assembly, or the controlling board. Division (A)(4) of this section does not apply to or affect a person who separates from service with the general assembly on or before December 31, 1995. As used in division (A)(4) of this section, "person" does not include any state agency or political subdivision of the state.

(5) ...As used in division (A)(4) of this section, "matter" includes the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments. As used in division (A) of this section, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person.

Consideration of the Issues

The statutory language of R.C. 102.03(A)(4) is very clear. If a member or employee of the General Assembly concludes his or her employment or service with the General Assembly after December 31, 1995, that person is prohibited from representing a person before the General Assembly, any committee of the General Assembly, or the controlling board on the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments for the period

of one year after separation from the General Assembly. Although the prohibition is clear, there are two issues that should be emphasized.

Conclusion of Service or Employment

As stated above, R.C. 102.03(A)(4) does not apply to those persons concluding their service or employment with the General Assembly on or before December 31, 1995. However, it must be determined what constitutes the "conclusion of employment or service." For purposes of this provision, the termination or resignation date will be the date used to determine whether the separation occurred before or after December 31, 1995.

In situations where the member or employee has taken a leave of absence for whatever purpose, that does not constitute a conclusion of service or employment for purposes of this division. While a member or employee is on leave, the person is still considered an employee of the state even though the person is not receiving compensation or benefits.

State Agency Exception

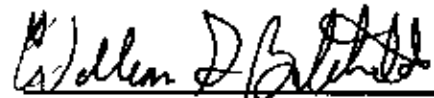
In addition to the date of separation prerequisite, R.C. 102.03(A)(4) does not include certain entities within the definition of "person." R.C. 102.03(A)(4) states the member or employee may not represent a "person"; however, for purposes of this division, "person" does not include any state agency or political subdivision of the state. Therefore, after a member or employee concludes his or her employment or service, that person is not prohibited from representing a state agency or political subdivision of the state before the General Assembly, any committee of the General Assembly, or the controlling board on the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments.

Conclusion

Accordingly, the Joint Legislative Ethics Committee finds and the members and employees of the General Assembly are so advised that (1) A member or employee of the General Assembly who concludes his or her employment or service with the General Assembly after December 31, 1995, is prohibited from representing a person before the General Assembly, any committee of the General Assembly, or the controlling board on the proposal, consideration,

or enactment of statutes, resolutions, or constitutional amendments for the period of one year after separation from the General Assembly; (2) For purposes of R.C. 102.03(A)(4), a member or employee of the General Assembly who takes a leave of absence has not concluded his or her service or employment with the General Assembly; and (3) A member or employee of the General Assembly is not prohibited from representing a state agency or political subdivision of the state before the General Assembly, any committee of the General Assembly, or the controlling board on the proposal, consideration, or enactment of statutes, resolutions, or constitutional amendments after the conclusion of the member or employees service or employment with the General Assembly.

This advisory opinion is based on 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