

OPINION NO. 1

The State Ethics Commission was asked by a member of the state legislature whether or not the following is in violation of the Ethics Act: The legislator is attorney for a certain firm and at the same time serves as chairman of the legislative committee reviewing legislation regulating the industry of which the firm is a member. In addition, he has hired that firm's assistant manager as his administrative assistant for the legislative session. The legislator indicated that he had taken action in accordance with the procedural rules of the legislative body of which he is a member to limit his participation in legislative action regarding the industry concerned.

It is the opinion of the State Ethics Commission that this situation does not violate the standards of conduct set forth in Act 263, SLH 1967.

The Commission is aware that conflicting interests may occur in the conduct of government, especially in the case of part-time officials. Our special concern is that when anyone in the public service of the State of Hawaii has a private interest which may conflict with the public interest, action be taken in behalf of the public interest. However, this Commission may only act to forward this concern within the framework of the laws of this state and the standards of conduct set forth in Act 263.

The Legislative Article of Hawaii's Constitution, Article III, provides that a member of the legislature cannot be held to answer before any tribunal other than the legislature for action taken in the exercise of his legislative functions. [Section 8.] Each house of the legislature has the power to discipline its own members and has its own procedural rules governing the legislative functions a member may exercise which affect his private interests. [Section 13.] We therefore cannot rule on the propriety of the procedural rules of the legislature concerning the legislator's participation.

The conflicts of interests section of the standards of conduct, section 8, provides in part: "no employee shall participate ... in any official action directly affecting a business or matter in which he has a substantial financial interest." However, while the section specifically governs "employees," it does not apply to "legislators." The actions of a member of the legislature are the concern of this Commission only if they are in violation of the Standards of the Act pertaining to legislators, such as use of official position to obtain unwarranted privileges under section 7.

Dated: Honolulu, Hawaii, March 1, 1968.

STATE ETHICS COMMISSION
Vernon Char, Chairman
Mary George, Commissioner
S. Don Shimazu, Commissioner
July Simeona, Commissioner

Note: Commissioner Morgan participated in the consideration of this opinion, but was away from the State during its drafting and signature.