

SUBJECT: DISASTER PREPAREDNESS DIRECTOR RECEIVING HAZARDOUS MATERIALS TRAINING

SUMMARY:

A Disaster Preparedness Director would not be prohibited from attending a hazardous materials training program, with a private business paying the expenses involved for such attendance.

QUESTION:

The Director of Disaster Preparedness for Berkeley County has been invited to receive hazardous materials training at Texas A&M. All expenses, except his salary, will be paid by Miles Inc. Miles Inc. is a member of the Local Emergency Planning Committee. The Director serves as the Chairperson of that committee. He questions whether the Ethics Reform Act supersedes an Executive Order creating the SC Emergency Response Commission which states in part that the Commission may receive grants or gifts of money, goods or services to carry out its duties.

DISCUSSION:

This opinion is rendered in response to a letter dated June 23, 1992 requesting an opinion from the State Ethics Commission. 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 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 Commission notes Section 8-13-705(A) and (B) which provides:

(A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

- (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
- (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or
- (3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

- (1) influenced in the discharge of his official responsibilities;
- (2) influenced to commit, aid in committing, collude in, allow fraud, or make an

opportunity for the commission of fraud on a governmental entity; or
(3) induced to perform or fail to perform an act in violation of his official responsibilities.

In Advisory Opinion SEC AO92-095, the State Ethics Commission advised that hazardous training is not being offered to influence an official action but is offered as a cooperative effort to improve emergency response operations.

The commission also called attention to Section 8-13-710 which provides in part as follows:

(A) Unless provided by subsection (B) and in addition to the requirements of Chapter 17 of Title 2, a public official or public employee required to file a statement of economic interests under Section 8-13-1110 who accepts anything of value from a lobbyist's principal must report the value of anything received on his statement of economic interests pursuant to Section 8-13-1120(a)(9).

A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

- (1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member, or public employee has reason to believe the person:
- (2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:
 - (a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity.
 - (b) conducts operations or activities which are regulated by the public official's, public member's or public employee's governmental entity.

Thus, if the public officeholder is required to file a statement of Economic Interest, such training program is to be thereon disclosed in accordance with this section.

In Advisory Opinion SEC AO92-052. the State Ethics Commission advised that private industry may provide support to assist an agency in carrying out its mandated responsibilities. The Commission believes that receipt of the training is of benefit to the agency and would advise that the agency may accept the training program and that the Director may attend the training program with expenses paid directly by the private firm.