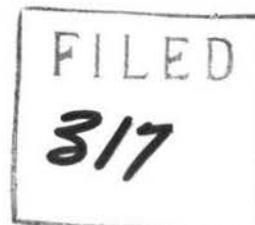


LEGISLATORS:

A state representative may not be employed to produce an annual report for the Land Clearance for Redevelopment Authority of the City of Springfield, because such employment violates Article III, Section 12 of the Constitution of Missouri.

OPINION NO. 317

October 23, 1973



Honorable Gerald L. Durnell
Representative, District 149
825 East Portland
Springfield, Missouri 65807

Dear Representative Durnell:

This official opinion is issued in response to your request for a ruling on the following question:

"Whether a conflict of interest or dual employment, under Article III section 12 of the Missouri State constitution exists in regard to a production contract for an Annual Report from the Springfield office of Urban Renewal, (a federal agency established as a body, public, corporate, and politic) awarded to my advertising firm, . . ."

You state that the "Urban Renewal" agency in question is in fact the Land Clearance for Redevelopment Authority of the City of Springfield. It is our understanding that this agency was created by ordinance of the city council of Springfield pursuant to Sections 99.300 to 99.660, RSMo. You have also stated that your firm, which is a sole proprietorship, submitted bids to this agency for production of its 1973 annual report, and subsequently you were notified that your firm had been selected to produce that report.

Article III, Section 12 of the Constitution of Missouri of 1945 states as follows:

"No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby

Honorable Gerald L. Durnell

be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. . . ."

We have interpreted this provision of the Constitution on a number of occasions, most recently in our Opinion No. 34, issued January 5, 1973, to the Honorable Paul L. Bradshaw. A copy of that opinion is attached hereto. We held there that a senator or representative who accepts an appointment by a court and receives compensation as an attorney to represent indigent defendants violates the constitutional provision. In our Opinion Letter No. 355, issued August 19, 1969, to the Honorable Ted Salveter (copy of which is also attached hereto), we held that a member of the General Assembly could not serve as an attorney for a state college or other state institution, and noted the following:

"The term 'employment' is subject to a variety of legal interpretations depending upon the context in which it arises. Since the purpose of Article III, Section 12 appears to be to prevent the potential conflicts of interest which would arise if a senator or representative were to have other duties with respect to other governmental bodies, we are of the opinion that a broad interpretation of the word 'employment' is called for when construing that section."

In St. Louis Housing Authority v. City of St. Louis, 239 S.W. 2d 289 (Mo. banc 1951), it was held that the city's housing authority was a "municipality." The court stated, at 294, that:

". . . Municipality now has a broader meaning than 'city' or 'town', and presently includes bodies public or essentially governmental in character and function. . . ."

We believe that the same principles apply to make the Land Clearance for Redevelopment Authority of the City of Springfield a "municipality" within the scope of Article III, Section 12 of the Constitution of Missouri of 1945.

In the instant situation, we believe that performance of a contract to produce the report to which you refer, for which you would receive compensation from the Land Clearance for Redevelopment Authority of the City of Springfield, would constitute "employment" within the meaning of Article III, Section 12 of the Constitution of Missouri of 1945, and therefore that a state representative may not accept such employment.

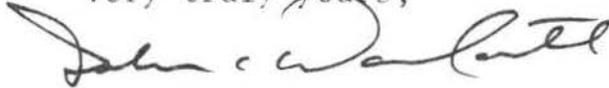
Honorable Gerald L. Durnell

CONCLUSION

Therefore, it is the opinion of this office that a state representative may not be employed to produce an annual report for the Land Clearance for Redevelopment Authority of the City of Springfield, because such employment violates Article III, Section 12 of the Constitution of Missouri.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mark D. Mittleman.

Very truly yours,



JOHN C. DANFORTH
Attorney General

Attachments: Op. No. 34
1-5-73, Bradshaw

Op. Ltr. No. 355
8-19-69, Salveter