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November 4, 1998

**ADVISORY OPINION NO. 98-53**

Charla G. Doucet, Chief  
Administrative Services Division  
Office of the Attorney General  
Alabama State House  
11 South Union Street  
Montgomery, Alabama 36130

Retired Public Employees Being Placed On  
Reemployment Register For Part-Time Or  
Temporary Employment With Agency From  
Which Employee Retired.

A retired public employee, who was not in a  
position of authority, including hiring,  
contractual or purchasing authority, may be  
placed on a reemployment register for part-  
time or temporary employment with the  
agency from which he or she retired.

Dear Ms. Doucet:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

**QUESTION PRESENTED**

If an employee, retired from the classified services, requests through the State Personnel Department to be placed on the reemployment register for part-time or temporary employment, may the state agency from which the employee retired, hire the employee through the reemployment register?



### **FACTS AND ANALYSIS**

Charla G. Doucet is the Chief of the Administrative Services Division of the Office of the Attorney General and requests clarification of Advisory Opinion No. 98-35. She states that the Office of the Attorney General, like many other state offices, has several employees who are retiring in light of the Retirement Incentive Program recently passed by the Alabama Legislature. She states that some of their employees have already retired pursuant to that program and that several retiring employees are in the classified service of the State Merit System, while others are in the unclassified service.

She raises the above question based on these facts and Advisory Opinion No. 98-35.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-13 states:

Section 36-25-13(a) states:

“(a) No public official shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, department, or legislative body, of which he or she is a former member for a period of two years after he or she leaves such membership. For the purposes of this subsection, such prohibition shall not include a former member of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(b) states:

“(b) No public employee shall serve for a fee as a lobbyist or otherwise represent clients, including his or her employer before the board, agency, commission, or department, of which he or she is a former employee for a period of two years after he or she leaves such employment. For the purposes of this subsection, such prohibition shall not include a former employee of the Alabama judiciary who as an attorney represents a client in a legal, non-lobbying capacity.”

Section 36-25-13(c) states:

“(c) No public official, director, assistant director, department or division chief, purchasing or procurement agent having the authority to make purchases, or any person who participates in the negotiation or approval of contracts, grants, or awards or any person who negotiates or approves contracts, grants, or awards shall enter into, solicit, or negotiate a contract, grant, or award with the governmental



agency of which the person was a member or employee for a period of two years after he or she leaves the membership or employment of such governmental agency.”

Section 36-25-13(d) states:

“(d) No public official or public employee who personally participates in the direct regulation, audit, or investigation of a private business, corporation, partnership, or individual shall within two years of his or her departure from such employment solicit or accept employment with such private business, corporation, partnership, or individual.”

Section 36-25-13(e) states:

“(e) No former public official or public employee of the state may, within two years after termination of office or employment, act as attorney for any person other than himself or herself or the state, or aid, counsel, advise, consult or assist in representing any other person, in connection with any judicial proceeding or other matter in which the state is a party or has a direct and substantial interest and in which the former public official or public employee participated personally and substantially as a public official or employee or which was within or under the public official or public employee's official responsibility as an official or employee. This prohibition shall extend to all judicial proceedings or other matters in which the state is a party or has a direct and substantial interest, whether arising during or subsequent to the public official or public employee's term of office or employment.”

Section 36-25-13(f) states:

“(f) Nothing in this chapter shall be deemed to limit the right of a public official or public employee to publicly or privately express his or her support for or to encourage others to support and contribute to any candidate, political committee as defined in Section 17-22A-2, referendum, ballot question, issue, or constitutional amendment.”

The Commission has recognized that there is a difference in those individuals with the authority to grant or negotiate contracts, make hiring decisions or who have authority to make or authorize purchases and those individuals who are considered line employees without the above responsibilities.



In many circumstances, it is beneficial to the agency to hire on a part-time basis, a retired employee, due to the fact there would be no training involved, because that retired individual can immediately begin to benefit that agency.

Based on the above law and the facts as presented, a retired employee, who was not in a position of authority, including the authority to make hiring decisions, negotiate or award contracts or make purchases may be placed on a reemployment register for either part-time or temporary employment with the agency from which he or she retired.

#### **CONCLUSION**

A retired public employee, who was not in a position of authority, including hiring, contractual or purchasing authority, may be placed on a reemployment register for part-time or temporary employment with the agency from which he or she retired.

#### **AUTHORITY**

By 4-0 vote of the Alabama Ethics Commission on November 4, 1998.



Camille S. Butrus  
Chair  
Alabama Ethics Commission