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Advisory Opinion 1992-238

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SUBJECT: FOUNDATION DIRECTOR BEING PAID BONUS

SUMMARY:

The State Ethics Commission advises that the Budget and Control Board's Division of Human Resource Management be contacted concerning the hiring of a foundation director to be compensated in part through a "productivity bonus".

QUESTION:

The Employee Relations Office of State Board for Technical and Comprehensive Education is requesting an opinion on a hypothetical question. One of the colleges intends to employ a Foundation Director in a permanent state-supported position with full benefits to raise money for the college's foundation. The foundation would pay part of the salary and also a "productivity bonus" based on a percentage of funds raised.

DISCUSSION:

This opinion is rendered in response to a letter dated May 22, 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 Ethics Reform Act encompasses prohibitions against the utilization of a public position for economic benefit. The circumstances presented do not appear to involve such use of a public position, but rather a compensation package put together by college administrators. The State Ethics Commission, therefore, advises that the Budget and Control Board's Division of Human Resource Management be contacted concerning the feasibility of such a compensation program.