

Post-Employment Restrictions
Particular Matter

Charter Sections 2601(17)
2604(d)(4)

Advisory Opinion No. 95-23

A former public servant has requested an opinion from the Conflicts of Interest Board (the "Board") as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, she may, upon leaving City employment, work for a private firm on matters involving legislation proposed for a subsequent legislative session which is the same or similar to proposed legislation on which she had worked in her former City position. Specifically, she has asked whether such legislative bills are considered "particular matters," on which she would be prohibited from working, for the purposes of Charter Section 2604(d)(4). For the reasons stated in this opinion, the Board has determined that, for the purposes of Charter Section 2604(d)(4), while a specific legislative bill is considered a particular matter during the session in which it is pending, bills introduced in subsequent sessions of the State legislature which involve the same or similar issues shall be considered different particular matters.

Background

While employed by the City, the former public servant served as a liaison to the State legislature. She was thus responsible for communicating with and lobbying State legislators in Albany with respect to the City's position on a number of bills pending in the State legislature. The former public servant has left City service and accepted employment with a lobbying firm (the "Firm"). Among her responsibilities for the Firm, the former public servant may be expected to work on matters involving legislative bills which include amended versions of bills considered in prior years or bills concerning matters similar to those she worked on during her tenure with the City. She has stated that she would not work on any of the same bills with which she was involved in her former City job. However, as stated above, she has requested clarification from the Board as to whether bills concerning the same or similar issues introduced during subsequent legislative sessions are considered "particular matters" for the purposes of the post-employment restrictions of Chapter 68.

Discussion

Among the post-employment restrictions of Chapter

68, Charter Section 2604(d)(4) prohibits a former public servant from appearing, whether paid or unpaid, before the City or from receiving compensation for services rendered "in relation to any particular matter involving the same party or parties with respect to which particular matter such person had participated personally and substantially as a public servant through decision, approval, recommendation, investigation or other similar activities." Charter Section 2601(17) provides that a "particular matter" includes any case, proceeding, application, request for a ruling or benefit, determination, contract limited to the duration of the contract as specified therein, investigation, charge, accusation, arrest, or other similar action which involves a specific party or parties.

Because of the permanent nature of the prohibition contained in Charter Section 2604(d)(4) against working on a particular matter with respect to which a former public servant was involved personally and substantially as a public servant, the Charter Revision Commission urged that "particular matter" be narrowly interpreted. See Report of the New York City Charter Revision Commission, Vol. II (December 1986 - November

1988) at 182-183. For example, the definition of a particular matter in Charter Section 2601(17) includes a "contract limited to the duration of the contract as specified therein" and does not include a renewal of the contract or a subsequent similar contract. Similarly, a particular matter, as the term applies to legislative bills, would be limited to a particular bill which was introduced, or re-introduced, during a particular legislative session. If the bill is introduced in a subsequent legislative session, with whatever amendments or modifications it may include, this new bill would be considered a different matter.

Conclusion

Based on the foregoing analysis, it is the opinion of the Board for the purposes of Charter Section 2604(d)(4) that, while a specific legislative bill is considered a particular matter during the session in which it is pending, bills introduced in subsequent sessions of the State legislature which involve the same or similar issues shall be considered different particular matters.

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