



MEC
OPINION NO.

1998.03.103

COPY

STATE OF MISSOURI
MISSOURI ETHICS COMMISSION
P. O. BOX 1370
JEFFERSON CITY, MISSOURI 65102

573/751-2020
1-800/392-8660

March 13, 1998

NOTICE

Anyone examining this advisory opinion should be careful to note that an opinion of the Missouri Ethics Commission deals only with the specific request to which the opinion responded and only as to the law as it existed at the date of the response and cannot be relied upon for any other purpose or in any other manner.

At its March 13, 1998, meeting, the Commission considered your request for an opinion. You asked about the scope and application of Section 105.454, RSMo.

More specifically, you requested an interpretation of the terms "serving in an executive or administrative capacity" and asked what level of officials or employees within your agency serve in such a capacity. In the Commission's view, the terms "executive or administrative" within Section 105.454 refer to the type of agency or organization in which an employee or official serves. These terms serve to distinguish officials or employees in bodies with executive or administrative functions from those persons serving in legislative or judicial bodies. They do not refer to a particular level of responsibility within an executive or administrative agency. Accordingly, it is the opinion of the Commission that, because the Public Service Commission is an executive branch agency, all employees or officials of that agency are subject to the provisions of Section 105.454.

You also asked whether Section 105.454(5) prohibited former PSC employees from working for companies that were regulated by the PSC or lobbying for such companies. Section 105.454(5) does not absolutely bar a former official or employee from working for a company that his or her former agency regulated. Instead, that provision restricts particular types of activity, specifically, attempts to influence decisions of an agency of the state or a political subdivision. Accordingly, a former employee or official of the PSC would not be barred by Section 105.454(5) from working for a company regulated by the PSC, but the former employee or official would be required to follow the restrictions of Section 105.454(5) in any dealings with the PSC during one year after leaving the agency. As a practical matter, this would place certain restrictions on the ability of the former employee or official to engage in lobbying activities.

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The Commission emphasizes that its analysis of your opinion request is limited to Section 105.454, RSMo, and does not address any other provision of law that might apply to the circumstances you describe.

Sincerely,



Charles G. Lamb, Ph.D.
Executive Director

CGL:jh

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Missouri Ethics Commission
State of Missouri