

June 8, 1995

Advisory Opinion 1995 - No. 14

QUESTIONS

The State Ethics Act prohibits legislators and legislative employees, in certain circumstances, from contracting with state agencies without prior approval of the Legislative Ethics Board and requires legislators and legislative employees who are awarded such contracts to file them with the board. In Advisory Opinion 1995 - No. 9 the board answered several questions related to these requirements but did not interpret the effective date of the provisions. With the following questions, we are now asked to do so:

(1) Do these prior approval and filing provisions apply to contracts which were executed prior to January 1, 1995, the effective date of the act?

(2) Do these prior approval and filing provisions apply to contracts which are amended or extended after January 1, 1995?

OPINION

The provisions of the State Ethics Act related to agency contracts are found in RCW 42.52.120. RCW 42.52.904 states that these provisions "shall take effect January 1, 1995." It is a physical impossibility to obtain prior approval for contracts entered into prior to that date, so it is clear that the approval requirements do not apply to pre-1995 contracts.

It is possible to require filing of pre-1995 contracts. However, for the reasons stated in Advisory Opinions 1995 - No. 9 and 12, the board finds that the purposes of the act are not served by excessive filing requirements. If legislators and legislative employees wish to file such contracts, they are permitted to do so, but the act only requires filing of contracts executed on or after January 1, 1995.

Some contracts which were executed prior to January 1, 1995 will be amended or extended on or after that date. Amendments and extensions require new negotiation and agreement. It is precisely this type of activity which is covered by the act. Therefore, the board holds that extensions or amendments to agency contracts which occur on or after January 1, 1995 are subject to the same filing and approval requirements as new contracts.