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## State Ethics Commission of Georgia

### ADVISORY OPINION NO. 2008-01 May 22, 2008

#### REAL OR HYPOTHETICAL SET OF CIRCUMSTANCES

Whether Georgia law prohibits contributions from the Georgia Utility Contractors Association (GUCA) PAC, member companies of the GUCA, or employees of the member companies, to a candidate for the Public Service Commission (PSC), and whether the GUCA PAC may hold a fundraiser for a PSC Commission race which would be attended by individuals from member companies.

#### ADVISORY OPINION

Georgia law prohibits a person acting on behalf of a public utility corporation regulated by the PSC from making contributions to a political campaign, and makes it a felony for any person to knowingly make such contributions with respect to a member of the PSC, a candidate for the PSC, or the campaign committee of a candidate for the PSC. See O.C.G.A. § 21-5-30(f).

Insofar as the GUCA, GUCA PAC, member companies of the GUCA or their employees, are not acting on behalf of a public utility regulated by the PSC, O.C.G.A. § 21-5-30(f) does not apply. The GUCA, GUCA PAC, member companies of the GUCA, and employees of the member companies, may make contributions to PSC candidates so long as those contributions are within the statutory limits imposed by O.C.G.A. § 21-5-41, as adjusted periodically by the State Ethics Commission pursuant to O.C.G.A. § 21-5-41(k).

In addition, should the GUCA, GUCA PAC, or a member company of the GUCA, exceed the statutory minimum of \$25,000.00 per calendar year of aggregate contributions and expenditures to or on behalf of candidates, they must register and report pursuant to O.C.G.A. § 21-5-34(e). If an employee of a GUCA member company exceeds the statutory minimum of \$25,000.00 per calendar year of aggregate contributions to candidates or candidates' campaign committees, that employee must register and report. See O.C.G.A. § 21-5-34(e)(1).

Any fundraiser by the PAC for a PSC commission race is a contribution to the candidate(s) for purposes of complying with the contribution limits allowed per candidate under O.C.G.A. § 21-5-41, and for purposes of determining the aggregation of contributions and expenditures to or on behalf of candidates under O.C.G.A. § 21-5-34(e). If the fundraiser is for more than one candidate, the contribution per candidate is a pro rata calculation based upon the total cost to hold the fundraiser and the number of candidates on whose behalf the fundraiser is held.

Prepared by Kay Baker