

ADVISORY OPINION # 1994-2

TO: Members, South Carolina Senate

FROM: Hugh K. Leatherman, Sr., Chairman
Senate Ethics Committee

RE: Voting on the Election of Administrative Law Judges and
Practicing Before Them.

DATE: February 22, 1994

The Committee has received the following question from a member:

May a Member vote on the new positions of Administrative Law Judge and practice before them?

First the Committee would like to quote from the Code that section which creates the Administrative Law Judges:

Section 1-23-500. There is created the South Carolina Administrative Law Judge Division, which is an agency of the executive branch of the government of this State.

Being an agency of the executive branch of the government and not considered a court under the unified judicial system, keeping in mind the provisions of Section 8-13-745(A), the Committee would advise the Members that a prior Opinion number 92-7, a portion of which is attached, would be applicable in this case.

However, should a Member choose to vote in the election of a particular seat of the Administrative Law Judge Division, then he nor any member of the firm with which he is associated may not practice for a fee before that judge for a period of twelve months. The Member may choose to abstain from voting on other seats of the Administrative Law Judge Division and retain his ability to practice before those judges.

If a Member abstains from voting on any of these positions he may continue to represent clients before those Administrative Law Judges in whose elections the Member did not vote. The Committee advises the Members who choose this course of action to have the necessary statement, outlined in our opinion 92-7, placed in the Senate Journal.