

SUBJECT: FILING REQUIREMENTS OF CITY OFFICIALS

SUMMARY:

Newly-elected city councilmen who have filed a Statement of Economic Interests as a candidate are required to file an updated form no later than April 15, 1992. A city clerk is required to file a Statement of Economic Interests annually while a city prosecutor and city attorney are not. A city judge is advised to seek advice from SC Court Administration concerning filing requirements. Incumbent council members who took office previously must file a Statement of Economic Interests no later than April 15, 1992 if still holding office at that time.

QUESTION:

The Mauldin City Attorney has requested advice on three questions:

1. Based on Section 8-13-1110 will the new Mayor and Councilmen be required to file a statement of economic interests prior to taking office in January? If so, do you have the forms ready and could you please send several to me.
2. The City Council will appoint several officials in January. Some of these are City Prosecutor, City Attorney, City Judge and City Clerk. All except the Clerk are attorneys who work on a fee or retainer basis, not salary. I send a monthly bill based on the time I work on City matters. Am I and the others required to file a statement?
3. Do Councilmen or others who took office a few years ago and are continuing to serve out their term have to file a statement in January or thereafter?

DISCUSSION:

This opinion is rendered in response to a letter dated November 22, 1991 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-1140 provides in part as follows:

A person required to file a statement of economic interests under this chapter shall file an updated statement for the previous calendar year with the appropriate supervisory office annually, no later than April fifteenth of each calendar year, listing any addition, deletion, or change in his economic status with respect to which information is required to be supplied under this article.

Each candidate was required under the State Ethics Act of 1975 to file a Statement of Economic Interests at the time of becoming a candidate. Such information covers activities of the prior calendar year. The State Ethics Commission will be distributing new forms for disclosure for calendar year 1991 in early January 1992. Those forms will need to be filed by these new council members no later than April 15, 1992.

Section 8-13-1110(B) provides for the filing of the Statement of Economic Interests by certain public officeholders. A City Attorney or City Prosecutor would not be required to file based upon those positions. A city clerk who serves as the chief municipal employee would be required by Section 8-13-1110(B)(4) to file the form. As to the City Judge, the State Ethics Commission would advise that the SC Court Administration be contacted concerning filing requirements by members of the judiciary.

Incumbent council members who hold office on April 15, 1992 will be required to file a Statement of Economic Interests no later than that date.