

SUBJECT: SCHOOL BOARD TRUSTEE PARTICIPATING IN MATTERS AFFECTING SPOUSES OF LAW FIRM EMPLOYEES

SUMMARY:

A School Board Trustee would not be prohibited from participating in salary raises or general issues affecting school district employees but is advised to follow the procedures of Section 8-13-700(B) on specific issues such as employment or termination.

QUESTION:

The Chairman of the Trustees of the School District of Greenville County is a partner in a law firm. Several employees have spouses who are employees of the School District. From time to time, the Trustees vote on raises for employees and termination of employees. He questions whether there is a conflict concerning the law firm's employees' spouses and his service on the Board of Trustees.

DISCUSSION:

This opinion is rendered in response to a letter dated January 27, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (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 8-13-700(B) provides in part as follows:

No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a member of his immediate family, an individual with whom he is associated, or a business with which he is associated has an economic interest. A public official, public member, or public employee who, in the discharge of his official responsibilities, is required to take an action or make a decision which affects an economic interest of himself, a member of his immediate family an individual with whom he is associated, or a business with which he is associated shall:

- (1) prepare a written statement describing the matter requiring action or decisions and the nature of his potential conflict of interest with respect to the action or decision;

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(4) if he is a public official, other than a member of the General Assembly, he shall furnish a copy of the statement to the presiding officer of the governing body of any agency, commission, board, or of any county municipality, or a political subdivision thereof, on which he serves, who shall cause the statement to be printed in the minutes and require that the member be excused from any votes, deliberations, and other actions on the matter on which the potential conflict of interest exists and shall cause the disqualification and reasons for it to be noted in the minutes;

Economic Interest is defined in Section 8-13-100(11) as:

(11)(a) Economic interest" means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official, public member, or public employee is incidental to the public official's, public member's, or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

Thus, on general salary raise issues, the Chairman would not be prohibited from participating in deliberations and votes since the economic interest accrues to all school employees as a class. The Commission advises, however, that in accordance with Section 8-13-700(B) the Chairman not participate in deliberations and votes on issues affecting specific employees whose spouses are employed by his law firm. Thus, he is advised against participating in issues affecting a raise for a specific employee or a hiring, termination, or disciplinary action affecting an employee's spouse.

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