

SUBJECT: CITY COUNCIL MEMBER RECEIVING COMPENSATION FROM EMPLOYER WHILE ATTENDING COUNCIL MEETINGS

SUMMARY:

A City Council member would not be prohibited from receiving his compensation from his private employer during the time he is absent from his bank position to attend City Council activities.

QUESTION:

The City Attorney for Winnsboro questions whether there is a violation for a member of City Council to continue to receive his salary from his position as an employee of South Carolina National Bank when he attends a meeting in his capacity as a council member. Once or twice a year, the council member may go to a function as a council member and the bank pays him for the time he is out of work.

DISCUSSION:

This opinion is rendered in response to a letter dated May 1, 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.

The Commission notes Section 8-13-705 which provides in part as follows:

(A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:

(1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;

(2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or

(3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's, or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

(1) influenced in the discharge of his official responsibilities;

(2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or

(3) induced to perform or fail to perform an act in violation of his official

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responsibilities.

Section 8-13-100(a)(xii) defines 'anything of value' to include an honorarium or compensation for services. Thus, compensation would be prohibited if offered to a public official to influence an official action. Based on the facts as submitted, it appears that there is no disruption in the bank employee's compensation due to his service with City Council. The State Ethics Commission knows of no reason why the Council member could not continue to receive his compensation from the bank during his absence to attend City Council activities.