

SUBJECT: PRESIDENT OF COLUMBIA HISTORIC FOUNDATION SERVING ON
COUNTY HISTORIC PRESERVATION COMMISSION

SUMMARY:

The President of the Historic Columbia Foundation would not be prohibited from serving on the Richland County Historic Preservation Commission; however, he would be required to follow the disclosure and disqualification procedures of Section 8-13-700(B) on matters affecting the economic interests of the Historic Columbia Foundation.

QUESTION:

The President of the Historic Columbia Foundation, a private eleemosynary organization, also serves by virtue of his position on the Richland County Historic Preservation Commission. The Vice Chairman of the Richland County Historic Preservation Commission inquires whether this individual may vote as a member of the County Historic Preservation Commission on matters which directly benefit the Historic Columbia Foundation.

DISCUSSION:

This opinion is rendered in response to a letter dated October 14, 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 State Ethics Commission knows of no provision of the Ethics Reform Act which would prohibit the Historic Columbia Foundation President's involvement on the Richland County Historic Preservation Commission. The State Ethics Commission notes, however, Section 8-13-700(B) which provides in part as follows:

(B) 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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(5) if he is a public member, he shall furnish a copy to the presiding officer 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 shall 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 such disqualification and the reasons for it to be noted in the minutes.

"Business" as defined in Section 8-13-100(3) "means a corporation, partnership, proprietorship, firm, an enterprise, a franchise, an association, organization, or a self-employed individual."

"Business with which he is associated" is defined in Section 8-13-100(4) as "a business of which the person ...is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class."

"Economic interest" is defined in Section 8-13-100(11)(a) as "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."

In accordance with past advisory opinions, the State Ethics Commission therefore advises that the President of the Historic Columbia Foundation would not be prohibited from serving on the Richland County Historic Preservation Commission. However, the member would be required to comply with the provisions of Section 8-13-700(B) on matters requiring action by the Richland County Historic Preservation Commission which would affect the economic interests of the Historic Columbia Foundation.