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## SOUTH CAROLINA ETHICS ACT

SC Municipal Finance Officers,  
Clerks and Treasurers Association

April 18, 2024

Charlie Barrineau, Field Services Manager  
Municipal Association of SC




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### Major Issues

Statement of Economic Interests:

- Required filings to disclose economic interests held by public official, public member, certain public employees

Rules of Conduct:

- Rules to prevent self-dealing, use of confidential information, influence peddling, and nepotism.




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### Statement of Economic Interests

What is it? Must be on forms prescribed by the State Ethics Commission; applies to filer and immediate family; and must contain full and complete information concerning:

- The name, business or government address, and workplace telephone number of the filer;
- Governmental income;
- Ownership of certain real property;
- Certain reimbursable expenses or per diems;
- Business ownership interests;
- Certain debts;
- The name of related lobbyists;
- Compensation from individuals or businesses that contract with the government;
- Source and amount of certain gifts; and
- Private sources and types of income.

**March 30  
Every Year**




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### Statement of Economic Interests

Who Must File?

- All public officials.
- Candidates for municipal office (in the definition for public official).
- Any person appointed to fill the unexpired term of an elective office.
- The city administrator, city manager, or chief municipal administrative official or employee, by whatever title.
- The chief finance official or employee and the chief purchasing official or employee of each municipality.




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### Statement of Economic Interests

When to File?

- Initial filing: "No public official, regardless of compensation, and no public member or public employee [listed on the prior slide] may take the oath of office or enter upon his official responsibilities unless he has filed a statement of economic interests."
- New Hires: Within 10 days of employment.
- Annual filings: A person required to file a statement of economic interests under this chapter annually shall file an updated statement for the previous calendar year, **no later than noon on March thirtieth of each calendar year.**




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### Statement of Economic Interests

Preliminary Definition – Immediate Family:

- A child residing in a candidate's, public official's, public member's, or public employee's household;
- A spouse of a candidate, public official, public member, or public employee; or
- An individual claimed by the candidate, public official, public member, or public employee or the candidate's, public official's, public member's, or public employee's spouse as a dependent for income tax purposes.




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### Statement of Economic Interests

#### Information Required (Income):

- The source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or the filer's immediate family during the reporting period.



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### Statement of Economic Interests

#### Information Required (Property):

- Description, value and location of real property owned or under option to purchase during the reporting period by filer or immediate family if public improvements were made in excess of \$200, OR the interest can reasonably be expected to be the subject of a conflict of interest.
- If a sale, lease, or rental of personal property is to a state, county, or municipality, a copy of the contract, lease or rental agreement must be attached to the SEI.



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### Statement of Economic Interests

#### Information Required (Speaking Engagements):

- The name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date, and location of the speaking engagement.



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### Statement of Economic Interests

Information Required (Business Ownership):

- The identity of every business or entity in which the filer or a member of the filer's immediate family held or controlled, in the aggregate, securities or interests constituting 5% or more of the total issued and outstanding securities and interests which constitute a value of \$100,000 or more.




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### Statement of Economic Interests

Information Required (Creditors):

- A listing by name and address of each creditor to whom the filer or member of the filer's immediate family owed a debt in excess of five hundred dollars if the creditor is subject to regulation by the filer or is seeking or has sought a business or financial arrangement with the filer's agency or department.
- Has exclusions for credit cards; retail installment contracts; debts to a bank, savings and loan, or other licensed financial institution which loans money in the ordinary course of its business and on terms and interest rates generally available to a member of the general public without regard to status as a public official, public member, or public employee; and debts to an individual's family member if the person who made the loan is not acting as the agent or intermediary for someone else.




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### Statement of Economic Interests

Information Required (Lobbyists):

- The name of any lobbyist who is (a) an immediate family member of the filer; or (b) an individual with whom or business with which the filer or a member of the filer's immediate family is associated.




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### Statement of Economic Interests

#### Information Required (Contracted Businesses):

- If the person receives compensation from an individual or business which contracts with the governmental entity with which the filer serves or is employed, the filer must report the name and address of that individual or business and the amount of compensation paid to the filer by that individual or business.




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### Statement of Economic Interests

#### Information Required (Gifts) Under Section 8-13-1120:

The source and a brief description of any gifts, including transportation, lodging, food, or entertainment received during the preceding calendar year from:

- a person, if there is reason to believe the person would not give the gift, gratuity, or favor but for the filer's office or position; or
- a person if the filer has reason to believe the person (a) has or is seeking to obtain contractual or other business or financial relationship with the filer's government; or (b) conducts operations or activities that are regulated by the filer's agency if the value of the gift is \$25 or more in a day or \$200 or more in a calendar year.




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### Statement of Economic Interests

#### Information Required (Gifts) Under Section 8-13-710:

A public official or public employee required to file a statement of economic interests who accepts anything of value from a lobbyist's principal must report the value of anything received on the SEI.

A public official, public member, or public employee required to file a statement of economic interests who receives, accepts, or takes anything of value worth \$25 or more in a day and anything of value worth \$200 or more in a calendar year must report on the SEI the thing of value from a person:

- if there is reason to believe the person would not give the thing of value but for the filer's office or position;
- if the filer has reason to believe the person: (a) has or is seeking to obtain contractual or other business or financial relationships with the filer's government; or (b) conducts operations or activities which are regulated by the filer's government.




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### Statement of Economic Interests

#### Information Required (Private Income):

A listing of the private source and type of any income received in the previous year by the filer or a member of his immediate family.



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### Statement of Economic Interests

#### Penalties for Non-Compliance

- Initial \$100 penalty.
- After certified letter is delivered: \$10 dollars a day after ten days.
- After ten days: \$100 day until maximum penalty of \$5,000 is reached.
- There may also be a complaint filed which means possible additional fines and fees.



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### Statement of Economic Interests

#### Penalties for Non-Disclosure

- Must disclose all information required in your SEI.
- If you fail to disclose the required information, you may be given a chance to correct the omission; "technical violation."
- Maximum fine of \$2,000.
- Complaint can be filed which may mean additional fees.



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# STATE ETHICS ACT




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## Rules of Conduct: Applicability

- “Public official, public member, or public employee.”
- “Public official” means an elected or appointed official of a municipality, including candidates for the office. It does not include the judiciary, except for probate judges for campaign and SEO purposes.
- “Public member” means an individual appointed to a non-compensated part-time position on a board, commission, or council. Reimbursement of expenses or a per diem payment does not mean the position is compensated.
- “Public employee” means a person employed by the State, a county, a municipality, or a political subdivision thereof.




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## Section 700 Violations

### Section 8-13-700(A), Self-Dealing

“No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated.”

Exception for incidental use not resulting in additional public expense.




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### Section 700 Violations

#### Section 8-13-700(B), Influence

“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 family member, an individual with whom he is associated, or a business with which he is associated has an economic interest.”

If a subject person is required to take an action or make a decision which affects an economic interest of himself, a family member, an individual with whom he is associated, or a business with which he is associated shall, he must fully recuse himself.



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### Section 700 Definitions

- “Family member” means an individual who is: (a) the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandparent, or grandchild; or (b) a member of the individual’s immediate family.
- Dictionary defines brother-in-law as (a) the husband of one’s sibling; or (b) the husband of one’s spouse’s sibling.
- “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 the person may gain an economic benefit of \$50 or more.



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### Section 700 Definitions

- “Individual with whom he is associated” means an individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth \$100,000 or more and which constitutes 5% or more of the total outstanding stock of any class.
- “Business with which he is associated” means a business of which the person or a member of his immediate family is a director, an officer, owner, employee, a compensated agent, or holder of stock worth \$100,000 or more and which constitutes 5% or more of the total outstanding stock of any class.



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### Section 700 Examples

- Hiring, promoting, or determining the salary of family members. May recuse yourself from line items in the budget, or may rely on across-the-board increases for departments.
- Providing special accommodations, goods, or services to a family member or a company with which the family member is employed or associated.
- Using office equipment or time to work on a second business.




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### Section 700 Examples

- "A city is considering an upgrade to a city boardwalk. City regulation requires that connections to the boardwalk must also be upgraded with the same materials and design as the boardwalk upgrade. A city council member, whose property is connected to the boardwalk, would be required to recuse from the city council's boardwalk upgrade discussion or vote if the connection upgrade costs \$50 or more." AO2011-002.
- "A public member of an aviation authority began the process of entering into a lease of land at an area airport prior to being appointed to the authority.... A public member who wishes to lease property from his public entity must recuse himself from taking any official action in the negotiations of the lease or in related matters. As a public member, he may not use his membership to obtain a more advantageous lease arrangement." AO2003-004




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### Section 700 Examples

- A city has November elections in odd-numbered years. Because of the delay in 2020 Census data, the city will not be able to complete redistricting before the 2021 election. The city proposes to delay the election pending redistricting.
- Are there ethical issues involved?




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### Section 700 Examples

- Town officials live in a planned development, are active participants in the neighborhood homeowner's association, and are members of the golf and tennis club.
- Must they recuse themselves from zoning decisions that affect the neighborhood?
- Section 8-13-100(11)(b): "This definition does not prohibit a [covered person] from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit ... accrues to the [person] 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."




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### Section 740 Violations

- Section 8-13-740 prohibits representing a person before any agency, unit, or subunit of your municipality for which you have official responsibility, except as required by law.
- Applies unless representation occurs in the normal course of business, is ministerial, or is personal in nature.




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### Section 740 Penalties

- Maximum fine of \$2,000.
- Complaint can be filed which may mean additional fees.




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### Section 740 Examples

- “S.C. Code Ann. § 8-13-740(5) prevents a bail bondsman who is a municipal public official from issuing bonds in the court system for that municipality. Given that a bondsman is subject to the jurisdiction of the court upon the default of the bond, thus necessitating ‘representation’ under Section 8-13-740(5), a municipal public official is also prohibited from owning a bail bonding business which conducts business in the court system for that municipality.” AO2017-003.
- “The Horry County Planning Department is an agency, unit or subunit of Horry County government. An Horry County Council member’s business associate may submit land development plans to the Horry County Planning Department for its consideration and approval/rejection. Decisions at staff level are *per se* ministerial and non-discretionary and therefore are subject to the exception.” AO2007-006.




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### Analysis of Conflicts

- Primary question: With respect to any situation or act, is there an economic interest to you, a family member, a person with whom you are associated, or a business with which you are associated?
- Keep the definitions handy, they are in Section 8-13-100.
- If such an economic interest exists, you have a conflict of interest under the Ethics Act!




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### Recusal

- If you have a conflict of interest under the Ethics Act, then you must recuse yourself.
- Prepare a written statement describing the action / decision item and your potential conflict of interest.
- Public Employees: Furnish a copy to your superior who then must assign the matter to another employee who does not have a potential conflict. If you don't have a superior, call the State Ethics Commission.
- Public Officials: Furnish a copy to the presiding officer of the body on which you serve. Statement shall be recorded in the meeting minutes and you shall be excused from discussion and action on the matter in question.




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### Summary of the Basic Rules; Always Consult the Act

Under no circumstances may you:

- Receive anything of value with the intent to influence you in your official capacity.
- Accept additional money for assistance given while performing your official duties.
- Use confidential information gained through employment for your personal gain.
- Represent another person before your governing body.
- Accept an honorarium for speaking engagements.




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## SCENARIOS




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**MaxPerks® Exclusive—Online Only**  
**FREE \$20 GAS GIFT CARD**  
 when you purchase \$100 of HP ink or 2 of the same HP toner cartridges\*.  
 Limit 1 gas gift card per customer.



All trademarks are the property of their respective owners. The companies listed are not a sponsor of this promotion. Card terms and conditions apply. The card shown is not the actual gift card you will receive.




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**A** Use the rebate card to take a road trip in your personal vehicle.

**B** Give the rebate card to Finance Department for Town purposes.

**C** Use the rebate card to buy gas for your secondary lawn care business.



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**MAKE A PURCHASE TODAY AND RECEIVE:  
A FREE 5-NIGHT VACATION PACKAGE!**



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**A** Free beach week for the family!

**B** Offer your Supervisor a free vacation....without the details!

**C** Decline the offer.



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 Municipal Association of South Carolina

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**A** Sell the tickets on StubHub!

**B** Decline the offer!

**C** Ask the vendor in addition to the tickets if they have food coupons.

 Municipal Association of South Carolina

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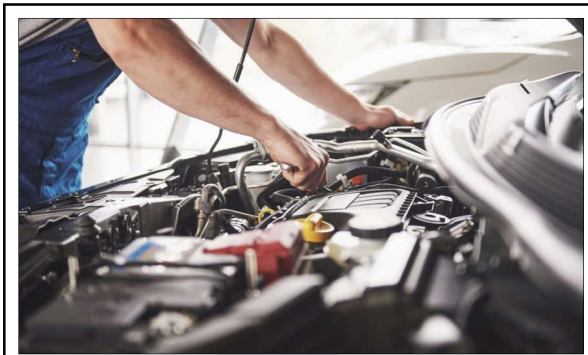
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 Municipal Association of South Carolina

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**A** Take your car by the Town maintenance facility for a checkup.

**B** Tell your friends bring their cars to the Town maintenance facility!

**C** Take your vehicle to your personal mechanic.



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**A** Turn in the overage!

**B** It's your lucky day! Take the overage!

**C** Take the overage and buy lunch for the office.



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**A** It's OK for an elected official to be compensated for work.

**B** An elected official should NOT be compensated for work.

**C** Being an elected official is a thankless job!

Municipal Association of South Carolina

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### Easy Ethics Standard To Follow

"Front Page" Test

How would I feel if the course of action I am considering were reported on the front page of the local newspaper or blog? If you would be at all uncomfortable, the best course of action is not to do it — end of analysis.

Source: "Western City" a publication of The League of California Cities

Municipal Association of South Carolina

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**Contacts at the Ethics Commission**  
 SC State Ethics Commission  
 201 Executive Center Drive, Suite 150  
 Columbia, South Carolina 29210

- Phone: 803.253.4192
- Fax: 803.253.7539
- Statements of Economic Interest: Lessie Cheeseboro, lessie@ethics.sc.gov
- Campaign Disclosures: Sandra Willis, sandra@ethics.sc.gov
- Complaint Process or the Act: Courtney Laster, claster@ethics.sc.gov




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