



SOUTH CAROLINA ETHICS ACT

Small City Summit

July 27, 2023

Eric Shytle, General Counsel
Charlie Barrineau, Field Services Manager
Municipal Association of SC



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.



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

Statement of Economic Interests

<https://ethicsfiling.sc.gov>

March 30 Every Year

Municipal Association of South Carolina

Statement of Economic Interests

<https://ethicsfiling.sc.gov>

March 30 Every Year

Municipal Association of South Carolina

Statement of Economic Interests

<https://www.youtube.com/@scstateethicscommission9226>

March 30 Every Year

Municipal Association of South Carolina

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.



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.**



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.



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.



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.



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.



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.



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.



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.



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.



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.



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.



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.



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.



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.



Rules of Conduct: Applicability

- Applies to public officials, public members, and public employees.
- “Public official” means an elected or appointed official of a municipality, including candidates for the office.
- “Public member” means an individual appointed to a non-compensated part-time position on a board, commission, or council.
- “Public employee” means a person employed by state or local government.



Section 700 Violations

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

You may not knowingly use your office or employment to obtain an economic interest for yourself, a family member, or an individual or business with which you are associated.



Section 700 Violations

Section 8-13-700(B), Influence

You may not use your office or employment to influence a governmental decision in which you, a family member, or an individual or business with whom you are associated.

If you are required to make a decision that affects your economic interest, you must fully recuse yourself.



Section 700 Definitions

- “Family member” means 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.
- “Economic Interest” means an interest distinct from that of the general public with an economic benefit of \$50 or more.



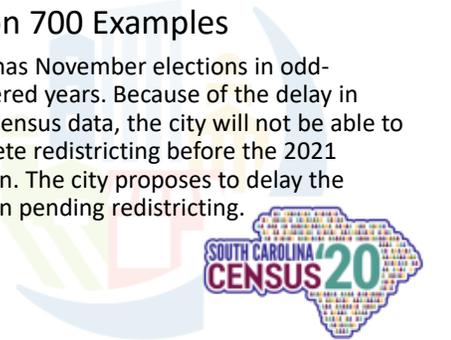
Section 700 Examples

- 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.



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.



Section 700 Examples

- Councilmembers live in a neighborhood, are active participants in the homeowner’s association, and are members of the golf and tennis club. What about decisions that affect the neighborhood?



- Section 8-13-100(11)(b) excludes economic interests that accrue “as a member of a profession, occupation, or large class to no greater extent than ... to all other members of the profession, occupation, or large class.”



Section 740 Violations



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



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 in which you have an economic interest?
- 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.



Recusal

- If you have a conflict of interest under the Ethics Act, then you must recuse yourself.
- Prepare a written statement. For public employees, furnish a copy to your superior. For public officials, furnish a copy to the presiding officer of the body on which you serve. Statement shall be recorded in the meeting minutes.



Recusal

RECUSAL STATEMENT

Member Name: _____
 Meeting Date: _____
 Agenda Item: Section _____ Number: _____
 Topic: _____

The Ethics Act, 8C § 1-101, provides that no public official may knowingly use his office to obtain an economic interest for himself or a family member of his immediate family, or individual with whom he is associated, or a business with which he is associated. The public official may make purchases or receive or influence governmental decisions or actions for or on his private or business that are economic interest. Failure to recuse oneself from an action which may in any way be related to interests in the public responsibility of the member constitutes a violation of the Ethics Act, 8C § 1-101. A written statement describing the action regarding action and the nature of the potential conflict of interest is required.

Qualifications to Recuse:
 Professionally employed by or under contract with principal
 Owns or has vested interest in principal or property
 Other: _____

Date: _____ Member: _____
 Approved by Parliamentarian: _____



Use of Resources for Campaigns and Elections

- Section 8-13-765: "No person may use government personnel, equipment, materials, or an office building in an election campaign."
- Section 8-13-1346: "A person may not use or authorize the use of public funds, property, or time to influence the outcome of an election."
- Applies to referenda, such as capital projects sales taxes or bonds.



Use of Resources for Campaigns and Elections

- Can you use your work email to support a candidate or referendum outcome?
- Can you use the office copier to copy campaign flyers?
- Can you make calls from an office phone or during work hours to support a candidate or referendum outcome?



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.





SCENARIOS



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.



Municipal Association of South Carolina

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.

Municipal Association of South Carolina

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



Municipal Association of South Carolina

A Free beach week for the family!

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

C Decline the offer.





A Sell the tickets on StubHub!

B Decline the offer!

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



A Sell the tickets on StubHub!

B Decline the offer!

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





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.

Municipal Association of South Carolina



A Turn in the overage!

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

C Take the overage and buy lunch for the office.







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!



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





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





SOUTH CAROLINA ETHICS ACT

Small City Summit

July 27, 2023

Eric Shytle, General Counsel
Charlie Barrineau, Field Services Manager
Municipal Association of SC