

SUBJECT: PUBLIC EMPLOYEE RUNNING FOR COUNTY COUNCIL

SUMMARY:

A public employee is not prohibited by the Ethics Reform Act from running for and holding an elective office. She is advised to follow the procedures of Section 8-13-700(B) if required to take action in one position affecting her service in the other position.

QUESTION:

The Office Manager for Berkeley County Water and Sewer Authority is interested in running for Berkeley County Council. She has requested an opinion from the Attorney General concerning dual office holding. She questions whether she may run without violating the Ethics Reform Act.

DISCUSSION:

This opinion is rendered in response to a letter dated February 24, 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 reason why the office manager could not run for the office of county council member. She is advised of the following provisions of the State Ethics Act. Section 8-13-735 provides:

No person who serves at the same time on:

- (1) the governing body of a state, county, municipal, or political subdivision board or commission, and
- (2) as an employee of the same board or commission or serves in a position which is subject to the control of the board or commission may make or participate in making a decision which affects his economic interests.

Thus, if the office manager is elected to county council, she is advised to follow the procedures of Section 8-13-700(B). In prior advisory opinions, the State Ethics Commission has advised that, if a person is allowed by other statutes to serve in more than one public position, that person should follow the procedures of Section 8-13-700(B) on matters affecting the other public position. Section 8-13-700(B)

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;

* * *

(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 the reasons for it to be noted in the minutes.