

SUBJECT: SPOUSES RUNNING FOR AND HOLDING COUNTY ELECTIVE POSITIONS

SUMMARY:

Spouses are not prohibited by the Ethics Reform Act from running for and holding elective positions with the same entity, however, they would be required to follow the provisions of Section 8-13-700(B) when required to take official actions affecting each others' economic interests.

QUESTION:

A public official questions whether a husband and wife may run for and hold elective office at the same level of government. The positions work closely together daily.

DISCUSSION:

This opinion is rendered in response to a letter dated June 15, 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 Ethics Reform Act does not address the issue of who may run for and hold any publicly elective office. The State Ethics Commission knows of no reason why the spouses could not run for and hold the two positions. The Commission calls attention to the provisions of 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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(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.

Therefore, when either spouse is required to take official actions or make decisions affecting the economic interests of the other spouse, the Commission advises that the provisions of Section 8-13-700(B) would apply.