

SUBJECT: PUBLIC OFFICIALS AS GUESTS

SUMMARY:

Public officeholders are not prohibited from attending a function as guests of an individual or non-lobbyist principal Sponsor unless such invitation is given to influence their official actions. If accepted, officeholders are required to disclose such attendance on their Statement of Economic Interests if the cost exceeds \$25. The Secretary of State's Office should also be contacted concerning the acceptance of the invitation.

QUESTION:

The Director of Government Relations of the Electric Cooperatives of SC requests an opinion concerning attendance at receptions and dinners by public officials. The sponsor is not a lobbyist's principal but has contracts with at least one city whose officeholders are invited. A dove shoot is provided by an individual and a Sponsor provides a reception and dinner which does not exceed \$25 per person. The event is strictly social with no business being conducted or discussed with the activities not intended to influence the invitees' official responsibilities. He questions whether the individual and Sponsor may invite the public officeholders without violating the Ethics Reform Act. He also questions whether the cost of the reception and dinner must be reported if the cost is less than \$25 per person.

DISCUSSION:

This opinion is rendered in response to a letter dated June 23, 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.

Section 8-13-705 provides in part as follows:

- (A) A person may not, directly or indirectly, give, offer, or promise anything of value to a public official, public member, or public employee with the intent to:
  - (1) influence the discharge of a public official's, public member's, or public employee's official responsibilities;
  - (2) influence a public official, public member, or public employee to commit, aid in committing, collude in, or allow fraud on a governmental entity; or

(3) induce a public official, public member, or public employee to perform or fail to perform an act in violation of the public official's, public member's or public employee's official responsibilities.

(B) A public official, public member, or public employee may not, directly or indirectly, knowingly ask, demand, exact, solicit, seek, accept, assign, receive, or agree to receive anything of value for himself or for another person in return for being:

- (1) influenced in the discharge of his official responsibilities;
- (2) influenced to commit, aid in committing, collude in, allow fraud, or make an opportunity for the commission of fraud on a governmental entity; or
- (3) induced to perform or fail to perform an act in violation of his official responsibilities.

Public officeholders would not be prohibited from accepting an invitation from an individual or sponsor except when such invitations are intended to influence. Absent such intent to influence, the State Ethics Commission does not believe that such invitations to a function by an individual or Sponsor are prohibited. Those officials or employees who are required to file a Statement of Economic Interests are reminded of the provisions of Section 8-13-710(A) and (B) which provide:

(A) Unless provided by subsection (B) and in addition to the requirements of Chapter 17 of Title 2, a public official or public employee required to file a statement of economic interests under Section 8-13-1110 who accepts anything of value from a lobbyist's principal must report the value of anything received on his statement of economic interests pursuant to Section 8-13-1120(a)(9).

(B) A public official, public member, or public employee required to file a statement of economic interests under Section 8-13-1110 who receives, accepts, or takes, directly or indirectly, from a person, anything of value worth twenty-five dollars or more in a day and anything of value worth two hundred dollars or more in the aggregate in a calendar year must report on his statement of economic interests pursuant to Section 8-13-1120 the thing of value from:

- (1) a person, if there is reason to believe the donor would not give the thing of value but for the public official's, public member's, or public employee's office or position;
- (2) a person, or from an officer or director of a person, if the public official, public member, or public employee has reason to believe the person:
  - (a) has or is seeking to obtain contractual or other business or financial relationships with the public official's, public member's, or public employee's governmental entity.

(b) conducts operations or activities which are regulated by the public official's, public member's or public employee's governmental entity.

Section 8-13-710 does not prohibit the acceptance of anything of value, but instead requires disclosure of anything of value worth \$25 or more in value received from either a lobbyist principal or a person seeking a business or financial relationship or someone giving the thing of value because of the officeholder's position.

The State Ethics Commission advises further that the Secretary of State's Office be contacted concerning this situation.