

SUBJECT: CONCURRENT EMPLOYMENT AS MEMBER OF THE BOARD OF ECONOMIC ADVISORS AND PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE SOUTH CAROLINA CHAMBER OF COMMERCE.

SUMMARY: A member of the Board of Economic Advisors is advised to follow the procedures of S.C. Code §8-13-700(B) (Supp. 1994) if required to take action affecting his service with the S.C. Chamber of Commerce.

QUESTION:

A member of the Board of Economic Advisors is also the President and Chief Executive Officer of the South Carolina Chamber of Commerce. He states that "some of the Chamber's members could possibly apply for a fee in lieu of taxes" and asks whether his concurrent positions create a conflict of interest.

DISCUSSION:

This opinion is rendered in response to a letter dated June 28, 1995 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. (Supp. 1994). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

A member of the Board of Economic Advisors is also the President and Executive Officer of the South Carolina Chamber of Commerce. The Board of Economic Advisors was created and exists under the authority of S.C. Code §11-9-810 et seq. (Supp. 1994). The enabling legislation provided that the purpose of the Board is to "establish an organizational and procedural framework governing formulation, evaluation and continuing review of all state revenues and expenditures for all state programs...". S.C. Code §11-9-810 (Law. Co-op. 1986).

Effective June 7, 1995 H. 4158 was adopted. The Act provides, in part and in relation to granting a fee in lieu of property taxes, that: The Board of Economic Advisors shall determine that the purposes to be accomplished by the project are proper governmental and public purposes and that the inducement of the location or expansion of projects within the State is of paramount importance and that the benefits of the project are greater than the costs. S.C. Code 4-12-30 (B)(5)(b) (1995).

S.C. Code §8-13-700(B) (Supp. 1994) 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.

The term "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 one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class. S.C. Code §8-13-100(4) (Supp. 1994).

Therefore, the member of the Board of Economic Advisors is advised to follow the procedures outlined above when asked to make, participate in making, or otherwise effect or influence a decision of the Board which may directly or indirectly effect the economic interests of the South Carolina Chamber of Commerce and its members.