



State of South Carolina

Office of the Governor

MARK SANFORD
GOVERNOR

Post Office Box 12267
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March 28, 2007

The Honorable Robert W. Harrell, Jr.
Speaker of the House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Mr. Speaker and Members of the House:

I am hereby vetoing and returning without my approval H. 3226, R-12.

I do not object to Section 1 of the bill. That section simply provides that state, county or municipal officials would not have to vacate their seat due to a conflict of interest regarding a particular issue, so long as they complied with the recusal requirements of Section 8-13-740(A). While I do not object to Section 1, I do not think it is necessary since current law already provides for recusal in cases of conflict of interest.

I do object, however, to Section 2 of the bill. This section allows an individual or business associated with a county official to represent a client before a governmental entity on which that official serves. I also object to Section 3 of the bill in that it opens the same door for advocates associated with municipal officials. These sections are intended to reverse an opinion (SEC AO2006-002) issued last year by the South Carolina State Ethics Commission.

Proponents of the bill contend that an ethical problem would be avoided if officials simply recused themselves from voting on the particular matter in which their business or associate was involved. But in such cases there is, at a minimum, an appearance of impropriety that undermines public confidence in the integrity and impartiality of the process.

I also think that Sections 2 and 3 of the bill create opportunities for actual mischief. An official who has recused himself from a matter can still, and often does, influence its outcome. Recusal does not necessarily result in a lack of influence over an outcome. Consider, for example, a case where a law firm represents a developer interested in amending a zoning law to increase density in order to gain millions of dollar in market value, and where a member of that same firm serves on the zoning board. It is not difficult to imagine that lawyer-board member, even after recusal,

The Honorable Robert W. Harrell, Jr.

Page Two

March 28, 2007

giving in to the temptation to influence that outcome. That may well be human nature, but we should not be in the business of putting our elected decision-makers in such situations.

The bottom line is that if H. 3226 becomes law and last year's ethics opinion is reversed, then there will be a tendency for those wanting something from a municipal or county government entity to hire someone who has business ties to someone who serves on that entity, with the expectation of deferential treatment. This would be a move toward a system that depends on "who you know" and away from one where a decision is based on merit.

I am convinced that H. 3226 would undermine the public's confidence in the integrity and impartiality of the government decision-making process at the state and county level, and would also create incentives for mischief by public officials. For these reasons, I am vetoing the bill.

Sincerely,

A handwritten signature in black ink, appearing to be 'MS', written in a cursive style.

Mark Sanford