

**OPINION OVERTUNED IN PART BY AMENDMENT TO SECTION 8-13-740(4) AND (5).
EFFECTIVE APRIL 12, 2007. SEE R12, H3226 FROM THE 2007 TERM AT
<http://www.scstatehouse.net/index.html>.**

SEC AO92-195

May 27, 1992

SUBJECT: PARTY CHAIRMAN SERVING ON VOTER REGISTRATION BOARD

SUMMARY: A political party chairman is not prohibited from also serving on the Voter Registration Board, however, he and the political party are prohibited from representing clients before any agency of county government.

QUESTION: The Allendale County Administrator questions whether there is a conflict of interests for a person to serve as a political party chairman and also chairman of the Voter Registration Board.

DISCUSSION:

This opinion is rendered in response to a letter dated April 9, 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 8-13-700(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;

* * *

- (5) if he is a public member, he shall furnish a copy to the presiding officer 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 shall 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 such disqualification and the reasons for it to be noted in the minutes.

Section 8-13-700(B) provides a procedure for recusal when a public member has a conflict of interests which will affect his economic interests. Thus, neither Section 8-13-700(B) nor any other provision of the Ethics Reform Act prohibits the chairman of a political party from also serving on the Voter Registration Board.

The State Ethics Commission calls attention to the provisions of Section 8-13-740 which provides in part as follows:

- (4) A public official, public member, or public employee of a county, an individual with whom the public official, public member or public employee is associated, or a business with which the public official, public member, or public employee is associated may not knowingly represent a person before any agency, unit, or subunit of that county except:
 - (a) as required by law; or
 - (b) before a court under the unified judicial system.

Individual with whom he is associated is defined in Section 8-13-100(21) as:

...an individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, 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.

Business with which he is associated is defined in Section 8-13-100(4) as:

...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.

Business is defined in Section 8-13-100(3) as:

...a corporation, partnership, proprietorship, firm, an enterprise, a franchise, an association, organization, or a self-employed individual.

Thus, while the political party chairman is not prohibited from serving on the Voter Registration

Board, he or any business or individual with whom he is associated, which includes the political party, is prohibited from representing clients before any agency or unit of county government, including the Voter Registration Board.