

SUBJECT: HOSPITAL BOARD MEMBERS VOTING ON INSURANCE ISSUE

SUMMARY:

Hospital trustees who are employed by a school district would not be prohibited from deliberating and voting on the hospital's participation in the State Blue Cross Plan since the economic benefits would accrue to all members of a large class.

QUESTION:

The Administrator for Barnwell County Hospital questions whether two Board Members could participate in deliberations and votes on the hospital's participation in the State Blue Cross Plan. Two of the members who voted on the issue are employed by local school districts, one as a school teacher, the other as a district superintendent. They would benefit from the lower costs associated with the hospital accepting Blue Cross payment rather than the normal payment. The Administrator questions whether these two Board Members should have abstained from the issue.

DISCUSSION:

This opinion is rendered in response to a letter dated January 8, 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;

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(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.

Economic Interest is defined in Section 8-13-100(11) as:

(a) "Economic interest" means an interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

(b) This definition does not prohibit a public official, public member, or public employee from participating in, voting on, or influencing or attempting to influence an official decision if the only economic interest or reasonably foreseeable benefit that may accrue to the public official's, public member's, or public employee's position or which accrues to the public official, public member, or public employee as a member of a profession, occupation, or large class to no greater extent than the economic interest or potential benefit could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class.

Since the two Board Members are employees of a large class or profession, i.e., school district employees, their interest is potentially no greater or less than that of all other members of the class or profession. Therefore, the State Ethics Commission sees no prohibition against the two Board Members participating in the deliberations and votes on the issue of the hospital's participation in the State Blue Cross Plan.