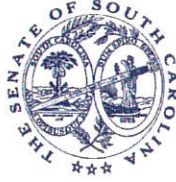


Senate Ethics Committee

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ADVISORY OPINION 2019-1

DATE: February 20, 2019

SUBJECT: STATEMENTS OF ECONOMIC INTERESTS AND APPOINTMENTS TO STATE BOARDS, COMMISSIONS, OR COUNCILS

SUMMARY:

A Senator's appointment to a state board, commission, or council because of his or her Senate position is not considered a separate position. Therefore, the Senator is not required to file a statement of economic interests (SEI) for more than one position and is not required to enter the Senate position and appointment position separately on an SEI.

QUESTIONS:

Is a Senator who is appointed to a state board, commission, or council because of his or her Senate position required to file a statement of economic interests (SEI) for more than one position and required to enter the Senate position and appointment position separately on an SEI?

DISCUSSION:

The South Carolina State Ethics Commission's (Commission) "Public Disclosure and Accountability Reporting System Electronic Filing: Statement of Economic Interests" user guide provides, "If you are filing for more than one position, you must enter each position separately." Several Senators who are appointees to state boards, commissions, or councils because of their Senate positions have asked the Senate Ethics Committee (Committee) whether they are required to file statements of economic interests (SEI) for more than one position and required to enter their Senator positions and appointment positions separately on their SEI.

South Carolina's ethics statutes do not specifically address this issue.

The House of Representatives Ethics Committee (House Committee) has issued an advisory opinion specifically addressing this issue. The House Committee found that a General Assembly member's service on a board, council, or commission could be considered incidental to the full and effective exercise of the member's legislative powers; thus, a representative is not required to report the representative's position with a board, council, or commission on an SEI. (See House Ethics Committee Advisory Opinion 2018-10).

Although the Commission has not issued an advisory opinion specifically addressing this issue, the Commission has recognized that public officials often sit on various boards and agencies because they are public officials. Also, the Commission has recognized that a public official is acting in his or her official capacity when the public official sits on a board, foundation, agency, etc., which is an “arm or child” of the public official’s governing body. (See South Carolina State Ethics Commission Advisory Opinion 2000-011).

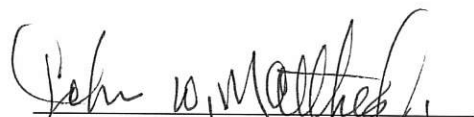
Although the South Carolina courts have not specifically addressed this issue, the South Carolina Supreme Court has also recognized that a General Assembly member’s appointment to a board, commission, or council as a result of being a member is not considered a separate position, but is instead incidental to the member’s legislative position and duties. (See Segars Andrews v. Judicial Merit Selection Commission, 387 S.C. 109, 691 S.E.2d 453 (S.C. 2010)).

CONCLUSION:

The Committee agrees with the above findings and rulings. A Senator’s appointment to a state board, commission, or council because of his or her Senate position is not considered a separate position. Therefore, the Senator is not required to file a statement of economic interests (SEI) for more than one position and is not required to enter the Senate position and appointment position separately on an SEI.




Senator Sean M. Bennett, Chairman



Senator John W. Matthews, Jr.



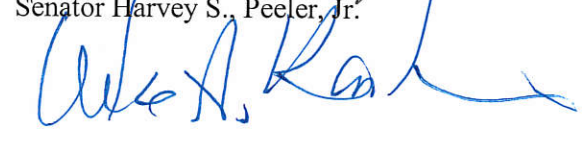
Senator Paul G. Campbell, Jr.



Senator Harvey S. Peeler, Jr.



Senator Brad Hutto




Senator Luke A. Rankin



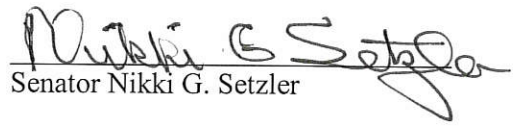
Senator Darrell Jackson



Senator Glenn G. Reese



Senator Hugh K. Leatherman, Sr.



Senator Nikki G. Setzler