

1981 WL 158252 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 27, 1981

*1 Mr. Francis K. Sullivan
Executive Secretary
Charleston County Legislative Delegation
Post Office Box 487
Charleston, South Carolina 29402

Dear Mr. Sullivan:

You have asked the opinion of this office on a possible conflict of interest of a public service district commissioner.

The facts, as set out in your letter, are as follows. A commissioner of a public service district has a husband and brother who are employed by the district. The commissioners deliberate and vote on all budgetary matters relating to the district. Your question is what, if anything, the commissioner in question needs to do to avoid violating the law.

The applicable law is the State Ethics Act, §§ 8-13-10 through 8-13-1020, [Code of Laws of South Carolina](#), 1976, as amended. Section 8-13-460 says in part:

Any public official or public employee who, in the discharge of his official duties, would be required to take action or make a decision which would substantially affect directly his personal financial interest or those of a member of his household, or a business with which he is associated, shall instead take the following actions:

(a) Prepare a written statement describing the matter requiring action or decisions, and the nature of his potential conflict of interest with respect to such action or decision.

...

... If the public official is a member of the governing body of any agency, commission, board, or of any county, municipality, or other political subdivision, he shall furnish a copy to the presiding officer and to the members of that governing body, who shall cause such 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 therefor to be noted in the minutes. [Emphasis added].

'Member of household' is defined as 'any person, his or her spouse, and any children occupying the same family residence . . . ' § 8-13-20(f). A public service district commissioner would be a 'public official'. See § 8-13-20(e).

I assume that the commissioner's husband, but not her brother, lives with her. Therefore, it is the opinion of this office that the commissioner should follow the procedure set out in § 8-13-460 and that she should not participate in the deliberations or votes on any part of the budget that 'substantially affect[s] directly' her husband (§ 8-13-460).

I hope this has been helpful to you. If you have any questions, please call me.

Sincerely,

Eugene W. Yates, III

Assistant Attorney General

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