

1978 WL 34864 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 19, 1978

*1 The Honorable Patrick B. Harris
Chairman
South Carolina House of Representatives
Ethics Committee
State House
Columbia, South Carolina 29201

Dear Representative Harris:

Recently your Committee has asked for an opinion from this Office concerning one aspect of 1976 Code Section 8-13-610. In particular, you have asked if the twenty (20) day filing requirement mandated by this Section comes due on a Saturday or a Sunday, should the date be extended until the following Monday.

In examining this question, we have looked at 1976 Code Section 15-1-20, which provides that the time within which an act is to be done shall be computed by excluding the last day if the last day is a Sunday. In addition, various cases and previous Attorney General opinions have determined that when an act is to be performed within a certain number of days, if the final day occurs on a Sunday, the act may be performed on Monday with no penalty imposed. Further, discussions with the attorney for the State Election Commission and with the Director of the State Ethics Commission reveal that these two agencies uniformly exclude Sunday and allow an act which otherwise would have been due on Sunday to be taken the following Monday.

For these reasons, it is our opinion that if a statement of economic interest is filed with your office on Monday, and the twentieth day for so filing occurred on Sunday, then the statement has been timely filed.

There remains for consideration the question of what happens when the statement is to be filed on a Saturday or legal holiday. Generally speaking, the test of reasonableness should be the guideline in this instance. If the House Ethics Committee is open for business on Saturdays and holidays, then it would be reasonable to insist that statements of economic interest which come due on Saturdays and holidays be filed on those dates. However, if the House Ethics Committee is not open for business on Saturdays or holidays, and if the Postal Service is unable to cancel an envelope with the date of the particular Saturday or holiday, then it would be unreasonable to insist that a statement of economic interest be filed on such day.

A determination should be made by your Committee concerning whether or not you wish to be available and open for filing on Saturdays and holidays. If your office is not open on those dates, it is our opinion that it would be unreasonable to demand filing on such dates.

I have discussed the contents of this letter with Assistant Attorney General Treva G. Ashworth, attorney for the State Election Commission, who has had extensive experience with filing requirements and time limits in the election process. Ms. Ashworth concurs in the advice given herein, and is of the opinion that such a procedure would be consistent with generally accepted legal and equitable principles governing the filing of documents.

I hope this information will be helpful to you, and if I can be of any further assistance, please let me know.
Sincerely,

*2 George C. Beighley
Assistant Attorney General

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