

State of South Carolina

State Ethics Commission

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5000 THURMOND MALL, SUITE 250
COLUMBIA, S.C. 29201

HERBERT R. HAYDEN, JR.
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Swati Patel and Patrick Dennis

FROM: Cathy L. Hazelwood

RE: H3945

DATE: May 5, 2014

To follow are questions and concerns we have with H3945.

Section 2: In a quick review the inclusion of judges appears to be in conflict with SCACR, Rule 501, Canon 4(C)(2). A judge isn't supposed to serve on a commission concerned with findings of fact. We enforce Rule 501 for several state agencies, so that's why I'm familiar with Rule 501. Also probate judges are the focus Canon 5 and I answer those questions all the time.

The dropping in of "shall serve ex-officio" does nothing as far as the dual office holding issue....to my mind. Making members of the commission "conduct themselves in accordance with the canons of judicial conduct" is also problematic, mostly for the legislators as Canons 4 and 5 very much restrict campaigning activity. They can't solicit campaign contributions, but must have a committee to do that. Their committee can't solicit contributions until a year before the election and must cease 90 days after the election.

Section 8-13-450 is problematic and cumbersome. Assigning a complaint matter to a three member panel for oversight will not work if the complaint numbers continue to rise. The Commission received 150 complaints in FY2013. That obviously doesn't include judicial or legislative complaints. The Commission has received 145 complaints so far in FY2014. How would the panel begin to oversee 50 complaint investigations?

As to Sections 8-13-475 and 480 the Commission prints nothing now after years of budget cuts. The employee brochure appears on our web-site under the Rules of Conduct page. The SEIs, CDs and lobbying reports are on-line.

Section 4, Article 3.

Section 8-13-320 It appears that there is duplication in the complaint process. SCCEED accepts and initiates complaints and refers them to the State Ethics Commission only after a finding of probable cause but then the Commission can initiate a complaint based on what is then termed a referral from SCCEED and not a complaint referral.

Section 8-13-350 The Commission doesn't print anything.

Section 15

Section 8-13-1308(E)'s language should provide that the candidate is amending his pre-election CD and that those contributions of less than \$100 must be disclosed on the next quarterly report.

Section 16

Section 8-13-1312's language would be improved if changed to "by debit or credit card issued in the name of the campaign or committee", not in the name of the candidate.

Section 19

Section 8-13-1320 change found in the Senate Judiciary legislation.

- (1) A contribution made on or before the seventh day after a primary is attributed to the primary. However, in the event of a primary runoff, all contributions made after the day of the primary and continuing through the seventh day after the primary runoff are attributed of the primary runoff for the purposes of applying contribution limits.

Section 22

We preferred the original amendment to Section 8-13-1348(B), we prefer the amendment from last Tuesday's meeting. What if a complaint arrives about an expenditure before we even review it? Our normal procedure is to give someone time to "cure" or explain, but if a complaint is filed during that time, then we proceed with the complaint.