



technical bulletin

Municipal Technical Advisory Service
Institute for Public Service, The University of Tennessee
In cooperation with the Tennessee Municipal League

July 8, 1977

CONFLICT OF INTEREST DISCLOSURE LAW

(The following technical bulletin was published by the County Technical Assistance Service. It is equally applicable to elective city officials and is therefore reprinted by MTAS for their information and guidance.)

There has been considerable publicity lately concerning local officials' non-compliance with Tennessee's conflict of interest disclosure law. Since such publicity may be the harbinger of greater efforts to enforce the law, all local officials should make a good faith effort to comply with the legal requirements. The law requires disclosures by candidates for elective local offices, but it also requires continuing disclosures by the office holder after election. In March of 1976, CTAS published a Technical Report regarding disclosure requirements, including the requirements of the conflict of interest disclosure law, incident to campaigns for election to local office. If you so desire, a copy of that report can be sent to you.

It is the purpose of this bulletin to remind county officials of the continuing requirements for disclosure. The Legislature in its latest session concluded May 19 enacted some amendments to the disclosure law, one of which is relevant for our purposes. This bulletin will acquaint you with the change made by that amendment, and, it is hoped, give you some guidance in fulfilling the continuing disclosure requirements.

The law requires that each elected county official disclose:

- 1) Major source or sources of private income, including spouse or minor children residing with him or her.
- 2) Any investment which the official, his or her spouse or minor children residing with the official has in excess of \$5,000.00 or 5% of the total capital of a corporation.
- 3) Offices, directorships, and salaried employments of the person making the disclosure, his spouse, or minor children residing with him.
- 4) Any person, firm, or organization for whom compensated lobbying is done by any associate, spouse, or minor child, or any firm in which any of these hold an interest. This must include the terms of employment and the measures supported or opposed.
- 5) The entities to which professional services, such as those of an attorney, accountant, etc., are furnished by the person making disclosure or by spouse.
- 6) Retainer fees which the person making disclosure receives from any person or organization who is in the practice of attempting to influence, directly or indirectly, the passage or defeat of any legislation before the General Assembly.

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For the convenience of county officials, I have attached to this memorandum a form to be used in making the necessary disclosures. As you can see, the form should be mailed when completed to the Secretary of State, State Capitol, Nashville, Tennessee 37219.

In addition the initial disclosure, T.C.A. §§ 8-4127 and 4128 require the filing of amended disclosure statements in certain circumstances. T.C.A. 8-4127 requires that a disclosure statement be amended from time to time as circumstances change because of acquisition or termination of interests for which disclosure is required. For example, if a local elected official were elected the director of a corporation, he or she would have to amend the disclosure statement to reflect the fact. The same is true of any change of status regarding items 1-8 above.

Section 8-4128 requires that each elected county official file an amended disclosure statement or give written notice to the Secretary of State that there has been no change of circumstances requiring an amended statement by January 15 of every year as long as the official holds office. Before this session of the Legislature, the date for filing the amended statement or giving notice that one was not necessary was set on or before the tenth calendar day after the commencement of each regular session of the Legislature. The Legislature in this session, apparently seeing the need for a surer and more constant date, set the date as January 15. This is the date on or before which you must either amend your disclosure statement or give written notice that there has been no change of circumstances requiring an amendment.

In order not to run afoul of the conflict of interest disclosure law and risk incurring the penalty provided in 8-4129 (a fine of not more than \$1,000.00), you as an elected county official should do the following:

- 1) If you have not already done so, fill out the initial disclosure statement on the form provided with this bulletin and send it to the Secretary of State at the address given.
- 2) As conditions change because of termination or acquisition of interests for which disclosure is required (Items 1-8 above), file amended disclosure statements.
- 3) Mark January 15 of next and succeeding years as the date on or before which you MUST file an amended disclosure statement OR notify the Secretary of State in writing that there has been no change of condition which requires an amended statement.

Sample Form for Conflict of Interest Statements

OFFICE OF THE SECRETARY OF STATE

DISCLOSURE STATEMENT

This statement required by Public Chapter Number 843 of the Public Acts of 1972.

1.

Last name First Name Middle initial

2.

Address

3.

Title of office

4.

Date

5.

Major source or sources of private income, including spouse or minor children residing with him. (In general terms, no firm or organization need be named, nor dollar amounts be stated.):

6.

Type of industry (Must be with a corporation or other business in excess of \$5,000 or 5% of the total capital of such corporation. Identity of the organization nor dollar amounts need not be named):

7.

Offices, directorships and/or salary employments of person making disclosure, the spouse and minor children residing with him. No firm or organization need be named nor dollar amounts be stated:

DISCLOSURE STATEMENT

8.

Names of any persons, firms or organizations for whom compensated lobbying is done by any associates of the person making the disclosure, the spouse or minor children residing with him, or any firm in which he or they hold any interest, complete to include the terms of any such employment and the measure or measures to be supported, or opposed:

9.

In general terms by areas of the client's interest, the entities to which professional services, such as those of an attorney, accountant, or architect, are furnished by the person making disclosure or his spouse:

10.

By any member of the Legislature, the amount and source, by name, or any contributions from private sources for use in defraying the expenses necessarily related to the adequate performance of his legislative duties:

11.

Any retainer fee which said person making the disclosure receives from any person, firm, or organization who is in the practice of promoting or opposing, influencing or attempting to influence directly or indirectly, the passage or defeat of any legislation before the general assembly, the legislative committees or the members thereof:

DISCLOSURE STATEMENT

12. Any adjudication of bankruptcy or discharge received in any United States District Court within five (5) years of the date of the disclosure:
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13. Such additional information as the person making disclosure might desire:
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If sufficient space is not available on this form, please attach additional sheets for necessary information.

Any disclosure statement shall be amended from time to time as conditions change because of the termination or acquisition of interests as to which disclosure is required.

As long as any person required by this Act to file a disclosure statement retains his office or employment he shall, within the first ten (10) calendar days after the commencement of each regular session of the Legislature, file an amended statement with the Secretary of State or notify the Secretary of State in writing that he has had no change of condition which requires an amended statement.

I, _____, hereby certify that this disclosure statement is complete, true and correct.

This, the _____ day of _____, 19____.

Return this completed form to:
Secretary of State
State Capitol
Nashville, Tennessee 37219

Violations of any of the provisions of this act shall be punishable, upon conviction thereof, by a fine of not more than one thousand dollars (\$1,000).

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