

STATE OF ALABAMA  
ETHICS COMMISSION



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March 6, 1996

**ADVISORY OPINION NO. 96-35**

Mr. Robert W. Ennis, IV  
City Attorney  
City of Tuscaloosa  
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Statements Of Economic  
Interests/ Appointed  
Members Of Boards And  
Commissions Having  
Statewide Jurisdiction (But  
Excluding Members Of  
Solely Advisory Boards).

Appointed members of  
boards and commissions  
having statewide jurisdiction  
(but excluding members of  
solely advisory boards) must  
file a Statement of Economic  
Interests with the Alabama  
Ethics Commission as  
required by Section 36-25-14.

Any person appointed as a  
public official or any person  
employed as a public  
employee at the state, county,  
or municipal level of

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government or their instrumentalities who occupies a position whose base pay is fifty thousand dollars (\$50,000) or more annually must file a Statement of Economic Interests.

Appointed members of municipal boards and commissions are not required to file a Statement of Economic Interests with the Alabama Ethics Commission, per the authority of Section 36-25-14(4).

While not required to file a Statement of Economic Interests, members of municipal boards and commissions, are otherwise covered by the provisions of the Alabama Ethics Law.

Dear Mr. Ennis:

The Alabama Ethics Commission is in receipt of your request for an Advisory Opinion of this Commission, and this opinion is issued pursuant to that request.

**QUESTION PRESENTED**

Are members of Municipal Planning Commissions, Zoning Boards of Adjustment, Civil Service Board, Building Code Boards of Adjustment, etc., required to file Statements of Economic Interests under Section 36-25-14?

### FACTS AND ANALYSIS

The City of Tuscaloosa, as does all other municipalities, has numerous boards and agencies, such as the Planning Commission, Zoning Board of Adjustment, Civil Service Board (appointed by the Governor, but operating only for the City of Tuscaloosa), Building Code Boards of Adjustment, etc. where dedicated citizens serve and fulfill a very important function for the continuing operation of municipal government. The definition of public official, at Section 36-25-1(25), including "any person appointed to a position at the state, county, or municipal level of government or the instrumentalities. . .", has raised a question as to the applicability of Section 36-25-14 to those citizens serving on municipal boards and agencies.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(25) states:

*"(25) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2."*

Section 36-25-14 states:

*"(a) A statement of economic interests shall be completed and filed in accordance with this chapter with the commission no later than April 30 of each year covering the period of the preceding calendar year by each of the following:*

*(1) All elected public officials at the state, county, or municipal level of government or their instrumentalities.*

*(2) Any person appointed as a public official and any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is fifty thousand dollars (\$50,000) or more annually.*

*(3) All candidates, simultaneously with the date he or she becomes a candidate as defined herein, or the date the candidate files his or her qualifying papers, whichever comes first.*

*(4) Members of the Alabama Ethics Commission; appointed members of boards and*

***commissions having statewide jurisdiction (but excluding members of solely advisory boards).***

*(5) All full-time nonmerit employees, other than those employed in maintenance, clerical, secretarial, or other similar positions.*

*(6) Chief clerks and chief managers.*

*(7) Chief county clerks and chief county managers.*

*(8) Chief administrators.*

*(9) Chief county administrators.*

*(10) Any public official or public employee whose primary duty is to invest public funds.*

*(11) Chief administrative officers of any political subdivision.*

*(12) Chief and assistant county building inspectors.*

*(13) Any county or municipal administrator with power to grant or deny land development permits.*

*(14) Chief municipal clerks.*

*(15) Chiefs of police.*

*(16) Fire chiefs.*

*(17) City and county school superintendents and school board members.*

*(18) City and county school principals or administrators.*

*(19) Purchasing or procurement agents having the authority to make any purchase.*

*(20) Directors and assistant directors of state agencies.*

*(21) Chief financial and accounting directors.*

*(22) Chief grant coordinators.*

*(23) Each employee of the Legislature or of agencies, including temporary committees and commissions established by the Legislature, other than those employed in maintenance, clerical, secretarial, or similar positions.*

*(24) Each employee of the judicial branch of government, including active supernumerary district attorneys and judges, other than those employed in maintenance, clerical, secretarial, or other similar positions.*

While Section 36-25-1(25) makes it clear that a person appointed to a position at the state, county, or municipal level of government, or their instrumentalities is a public official and therefore subject to the Alabama Ethics Law, Section 36-25-14(a)(4) provides that only those appointed members of board and commissions **having statewide jurisdiction** (but excluding members of solely advisory boards) are required to file Statements of Economic Interests.

However, should that board member receive a base pay of fifty thousand dollars (\$50,000) or more annually from his appointment to the board, he must file a Statement of Economic Interests.

Under the facts as presented, and the applicable law, members of municipal boards and commissions are not required to file Statements of Economic Interests under Section 36-25-14, unless his pay for serving on the board is fifty thousand dollars or more a year.

Again, while the board and commission members are not required to file Statements of Economic Interests, they are subject to all other provisions of the Alabama Ethics Law.

### CONCLUSION

Appointed members of boards and commissions having statewide jurisdiction (but excluding members of solely advisory boards) must file a Statement of Economic Interests with the Alabama Ethics Commission.

Any person appointed as a public official or any person employed as a public employee at the state, county, or municipal level of government or their instrumentalities who occupies a position whose base pay is fifty thousand dollars (\$50,000) or more annually must file a Statement of Economic Interests.

Appointed members of municipal boards and commissions are not required to file a Statement of Economic Interests under Section 36-25-14(4).


While not required to file a Statement of Economic Interests, members of municipal

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boards and commissions, are otherwise covered by the provisions of the Alabama Ethics Law.

**AUTHORITY**

By 4 - 0 vote of the Alabama Ethics Commission on March 6, 1996.

A handwritten signature in black ink, appearing to read "H. Dean Buttram, Jr.", written over a horizontal line.

H. Dean Buttram, Jr.  
Chair  
Alabama Ethics Commission