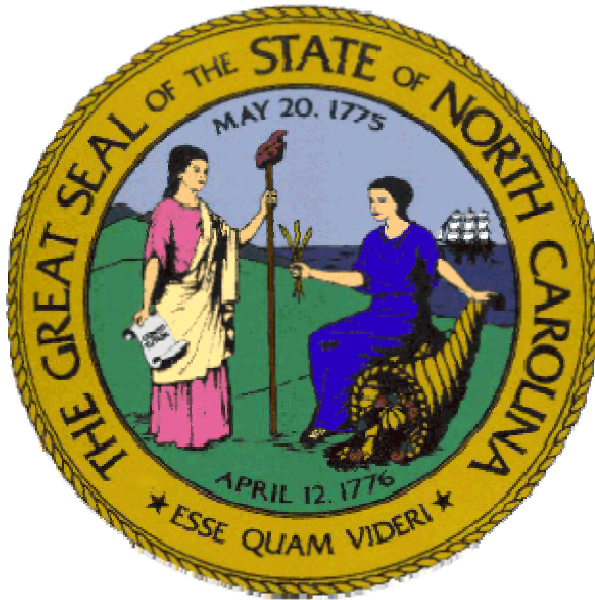


OSBM

**Staffing Analysis of the North Carolina  
State Ethics Commission**

**Management Study**

**January 2008**



*Prepared By:*

***Office of State Budget and Management***

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# INTRODUCTION

## *Scope of Study*

In a September 11, 2006, letter to the North Carolina State Ethics Commission<sup>1</sup>, the State Budget Director committed the Office of State Budget and Management (OSBM) to conduct a staffing analysis of the Commission to determine the appropriate staffing requirements based on the workload generated by the newly enacted State Government Ethics Act (G. S. 138A, effective January 1, 2007) and Lobbying Law (G. S. 120C, effective January 1, 2007). Both statutes were amended by S.L. 2007-347 (HB 1110) and S.L. 2007-348 (HB 1111) in August 2007.

## *Methodology*

In order to conduct the staffing analysis, the OSBM study team performed the following tasks:

- Examined and analyzed the organizational structure of the Commission,
- Analyzed employees time and resource allocation data provided by management and staff,
- Interviewed all Commission employees,
- Reviewed the statutory requirements of the State Government Ethics Act (Ethics Act) and Lobbying Law, and
- Analyzed various other data.

# BACKGROUND

In January 1977, Governor Hunt issued an executive order creating the North Carolina Board of Ethics, which established jurisdiction over employees in the Governor's office, department heads and their chief assistants, employees in exempt policy-making positions, and appointees to non-advisory boards and commissions. The Board's main duties and responsibilities in 1977 were reviewing Statements of Economic Interest (SEIs), rendering advisory opinions, and investigating complaints. The Board did not have the power to issue sanctions against public officials found in violation of the executive order. With only minor changes, Governor Martin issued his own executive order establishing a Board of Ethics in January 1985 and amended the order in 1990 to include all members of boards, commissions, and councils within the executive branch. When Governor Hunt returned to office in 1993, he again established the Board of Ethics with his own executive order with substantially no changes. In early 1998, Governor Hunt revised his ethics executive order, greatly expanding the Board's powers and duties, particularly in the areas of ethics education, financial disclosure, evaluation, and enforcement. The executive order's "rules of conduct" were also expanded; directing public officials to avoid "even the appearance of a conflict of interest." Governor Easley's 2001 executive order established the Board of Ethics that retained the powers and authority previously established by Governors Hunt and Martin.

Prior to January 1, 2007, the Board of Ethics was the State's primary conflict of interest "watchdog" for high-level employees and appointees in the executive branch of State government. The Board's overall mission was to protect the public interest and maintain the public trust by helping public officials and members of boards and commissions avoid conflicts of interest and the appearance of conflicts of interest as they performed their public duties. The Board pursued its duties primarily through education, evaluation, and enforcement.

The Ethics Act and the Lobbying Law created the State Ethics Commission with an overall mission of protecting the public interest and maintaining public trust, by helping covered persons<sup>2</sup> identify, address, and avoid conflicts of interest and appearances of conflict of interest as they perform their duties throughout the State. The number of covered persons was greatly expanded with the inclusion of elected legislators and their staff and judicial officers. The Commission accomplishes its mission primarily through evaluating SEIs, providing advisory opinions,

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<sup>1</sup> Hereafter, the North Carolina State Ethics Commission will be referred to as "the Commission".

<sup>2</sup> Covered Persons include certain elected officials, judicial officers and employees, State employees, and appointees to non-advisory state boards and commissions. The Commission's web site <http://www.ethicscommission.nc.gov/cpersons.htm> provides details on the groups and names of persons covered by the Ethics Act and Lobbying Law.

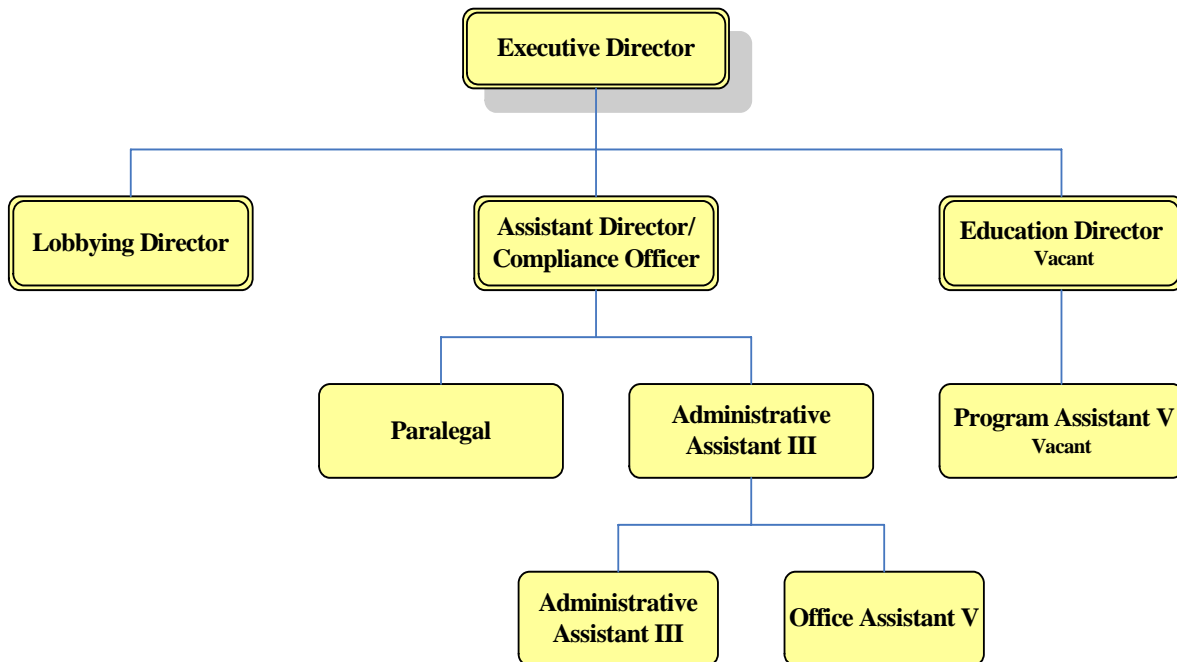
education, enforcement, and investigation efforts. Appendix A shows the obligations of all persons covered by the Ethics Act.

### ***Organizational Structure and Program Process***

The Commission has eight members that are appointed by the Governor and the General Assembly.<sup>3</sup> Further, the Commission is supported by nine staff members that handle the day-to-day duties and responsibilities mandated by the Ethics Act and Lobbying Law. Two of the staff positions are currently vacant. Exhibit 1 depicts the organizational structure of the Commission's staff and their direct lines of supervision.

**Exhibit 1**

## **STATE ETHICS COMMISSION STAFF**



November 1, 2007

The primary duties and responsibilities of the Commission staff are to:

- 1) Review and approve SEIs submitted by covered persons,
- 2) Evaluate and respond to requests for advisory opinions,
- 3) Educate all covered persons and persons that report directly to covered persons about the requirements of the State Ethics Act and Lobbying Law, and
- 4) Enforce the requirements of the statutes and investigate complaints of ethics violations by covered persons.

The staff also performs a number of other duties related to the overall operation of the Commission, including preparing for and participating in Commission meetings, monitoring and interacting with the General Assembly, answering telephone calls, responding to e-mail inquiries, managing the office, and supervising the Commission staff. Table 1 on page 3 shows all of the duties and responsibilities of the Commission's staff and brief descriptions of their duties and responsibilities. However, these descriptions are not based on measurable service statements of OSBM's Results Based Budgeting process.

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<sup>3</sup> Of the eight members, four are appointed by the Governor and four are appointed by the General Assembly—two based upon the recommendation of the Speaker of the House of Representatives and two based upon the recommendation of the President Pro Tempore of the Senate.

Table 1

### Duties and Responsibilities of the Staff of the State Ethics Commission

| Duties/Responsibilities                                    | Description   | FTE <sup>a</sup> |
|--|---|------------------|
| Statements of Economic Interest (SEIs) forms               | Review SEIs for completeness, research information reported, review applicable General Statutes, answer questions via telephone, e-mail, and walk-ins, and generate correspondence to filers. | 2.27             |
| Education  | Provide education presentations for all covered persons and others that are required to comply with the Ethics Act and Lobbying Law.  | 1.82             |
| Advisory Opinions--Ethics and Lobbying                     | Review, research, and respond to requests from covered persons regarding conflicts of interest and/or compliance with the Ethics Act and Lobbying Law.  | 1.80             |
| Commission meetings  | Prepare for and participate in Commission meetings.   | .73              |
| Office Support   | Answer and route telephone calls, handle incoming and outgoing mail, and assist senior staff with special projects.   | .48              |
| Management, supervision, & human resources                 | Oversee office operations, supervise administrative staff, interact with contractors, and manage human resource activities.   | .43              |
| Commission e-mail  | Receive, review, and route e-mail messages to appropriate staff, draft responses for some e-mail requests, and maintain files of e-mail messages.   | .25              |
| Complaints   | Receive, review, and acknowledge receipt of complaints, route to appropriate senior staff, maintain tracking system for complaints, and handle correspondence related to complaints.          | .22              |
| Legislative interaction                                    | Appear before various legislative committees, meet with legislative staff, and monitor ethics and lobbying related bills in the General Assembly.   | .16              |
| Commission newsletter & web site                           | Prepare newsletter and create and maintain updates for web site.  | .16              |
| Implement new Ethics Commission                            | Acquire office space and equipment, advertise for and hire additional staff, develop a start-up budget, and handle other Commission operations.   | .15              |
| Database management  | Develop and maintain various databases related to education, SEIs, advisory opinions, list of covered persons, and other Commission information.  | .18              |
| Rules and rulemaking                                       | Prepare Commission rules, review and comment on rules proposed by the Department of the Secretary of State, and attend public hearings related to rules.                                      | .11              |
| Public record requests                                     | Handle requests for copies of public records, supervise public review of records, and invoice and receive payments for copies of public records.  | .11              |
| Reporting  | Prepare, review, revise, and submit reports to Fiscal Research and Joint Subcommittee on General Government, Budget. Prepare the Commission's annual report.                                  | .05              |
| Coordination with the Department of the Secretary of State | Interact with the Department of the Secretary of State on issues related to advisory opinions, education, and rulemaking.   | .04              |
| Other  | Respond to media inquiries, publication of Commission "Law Book", etc   | .04              |
| <b>Total FTEs</b>  |   | <b>9.00</b>      |

<sup>a</sup> Full Time Equivalent is based on staff estimates for 8 months--January 1 through August 31, 2007

**Source:** OSBM's analysis of data provided by the Commission

All persons holding covered positions on January 1, 2007 were required to file SEIs by March 15, 2007. Further, persons appointed, employed, or needing a certificate of election after January 1, 2007, had to file SEIs and have them evaluated by the Commission prior to taking their respective positions. Persons who fail to file their SEIs on time are subject to sanctions and fines. The SEIs require covered persons to disclose financial and personal interests that will enable them to avoid conflicts of interest or potential conflicts of interest between their private interest and public duties. The SEIs also enable persons who appoint, elect, hire, supervise, or advise covered persons to be aware of and avoid conflicts of interest for covered persons.

All covered persons, registered lobbyists, and lobbyist principals can request an advisory opinion from the Commission. The Commission’s opinions address specific questions about the meaning and application of the State Ethics Act and Lobbying Law, along with requesters’ compliance with the statutes. The requests must be in writing (regular mail or e-mail) and related to real or reasonably anticipated facts or circumstances. Depending upon the requesters needs, the Commission’s response can be a formal (written) or an informal (oral) opinion.

The Commission’s education program includes developing and implementing educational programs for all legislators, legislative employees, public servants and their immediate staff, lobbyists, and lobbyist principals. The education presentations cover the requirements of the Ethics Act and the Lobbying Law, and provide the initial mandatory education for all covered persons. Biennial refresher courses are required for all covered persons. The education program also includes producing periodic newsletters and providing information about State laws, rules, procedures, and other information relevant to the Ethics Act and Lobbying Law. Additionally, the Commission must identify and publish at least quarterly a listing of the names and positions of all persons subject to the Ethics Act.

In its enforcement capacity, the Commission is responsible for interpreting, investigating, and enforcing the Ethics Act and Lobbying Law. The Commission has the authority to pursue fines and/or sanctions against person who fail to file their SEIs on time or file improperly. Further, it may pursue criminal actions against any person who conceals, fails to disclose required information, or knowingly provides false or misleading information to the Commission. Additionally, the Commission may investigate complaints of unethical conduct by covered persons and legislative employees to determine the applicability to the Ethics Act and Lobbying Law or criminal laws, and whether legal actions should be taken.

## RESULTS

The Ethics Act and Lobbying Law greatly increased the workload of the newly created Ethics Commission. The Commission’s predecessor, the North Carolina Board of Ethics, had some of the same duties and responsibilities; however, they were not as comprehensive and did not include as many covered persons as the Commission. For example, the Ethics Act and Lobbying Law covers about twice as many persons, have enforcement authority for SEIs, and have a gift ban that the Board of Ethics did not cover. Further, the ethics requirements of the Lobbying Law were not covered by the Board of Ethics. The Commission is also providing significantly more advisory opinions under the Ethics Act and Lobbying Law than the Board of Ethics. With each of the added or expanded responsibilities, the Commission was faced with expanding its staff to meet the increased demands and new enforcement requirements of the Ethics Act and Lobbying Law, providing ethics training for about 10,000 persons, and familiarizing new staff with their respective duties.

### *Statements of Economic Interest*

The expanded reporting requirements and enforcement authority granted the Commission for the SEIs probably increased its workload the most. The number of covered persons required to submit SEI more than doubled with the inclusion of the legislature, legislative employees, and judiciary as well as a significant increase in the number of university and community college boards of trustees. Table 2 shows the added

**Table 2**

**Comparison of Statement of Economic Interest Requirements for the Ethics Board and the Ethics Commission**

| Board of Ethics  | Ethics Commission   |
|--|---|
| Covered Persons -- approximately 2,000                               | Covered Persons -- 4,367  |
| Executive branch employees   | Constitutional officers and employees   |
| Governor's appointees to University System Board of Trustees         | All members of the University of North Carolina System Board of Governors and the 16 universities' Board of Trustees                      |
| Governor's appointees to Community College System Boards of Trustees | All voting members of the State Board of Trustees of the Community College System and the Boards of Trustees of the 58 community colleges |
| Governor, House, & Senate appointees to covered Boards & Commissions | All members of covered Boards & Commissions   |
|  | Legislators   |
|  | Legislative employees   |
|  | Justices, judges, district attorneys, & clerks of court   |

Source: State Government Ethics Act



requirements for SEIs for the Commission. Previously, covered persons in the executive branch and persons appointed by the governor only had to submit the completed SEI forms when they were first employed or appointed by the governor. The Board’s staff performed limited reviews and verifications of the information reported. Also, the Board had no enforcement authority relative to assessing fines or penalties. In subsequent years covered persons could submit supplemental SEIs that only showed changes from the previous year or a “no change” SEIs and the Board’s staff did not have to review them or send confirmation letters for the supplemental and no change SEIs.

As of January 1, 2007, there were 4,367 covered persons who were required to file SEIs with the Commission. As of August 31, 2007, the Commission staff had completed its review, research, and approval for 624 (14.2%) of the 4,376 SEIs. For the remaining 3,743 SEIs, the Commission staff had reviewed them for completeness and followed up with the filers to get additional information for the incomplete ones, but the staff still had to thoroughly review, research, and approve them. Based on the time spent reviewing and approving the 624 SEIs, OSBM projects that it will take 17.6 months of staff time, at the present rate of review, to complete the review and approval of the August 31, 2007 backlog of 3,743 SEIs. In addition to the SEIs that were initially submitted by persons covered by the Ethics Act and Lobbying Law, the Commission received several hundred additional SEIs from covered persons that were elected, appointed, or hired during 2007.

While the staff’s workload for processing the SEIs was very large for 2007, the workload for subsequent years should decrease because all of the in depth research will not be necessary if filers have little or no change in their financial and personal holdings. The Commission had planned to allow filers who have little or no change in their financial and personal holdings to submit a “short SEI form” in subsequent years rather than the lengthy multi-question forms. However, Section 34 of S.L. 2007-348, requires all filers to respond to all of the SEI questions annually. Thus, the Commission is currently requiring all filers to submit the “long SEI form” annually even if they have little or no change in their financial and personal interest. Further, there will continue to be new covered persons (elected, appointed, or employed) whose SEIs will require more time to review and research as well as the previous filers who have significant changes in their financial and personal holdings in subsequent years. At this point, it is not possible to project how much the SEI workload may decrease in future years.

### ***Advisory Opinions***

The staff issues two types of advisory opinions—formal and informal. The formal advisory opinions are the ones in which the requestors ask the Commission to provide written letters relative to whether their personal or business activities or future actions comply with the requirements of the Ethics Act or Lobbying Law. Informal advisory opinions are requests related to the requestors’ compliance with the Ethics Act and Lobbying Law, but they are only asking for a verbal opinion. On the average, it takes the Commission staff more than five times as much time to complete a formal advisory opinion as it does for an informal opinion.

The Commission staff had expected the number of advisory opinion requests from legislatures and lobbyists to decline with the adjournment of the legislature; however the number of opinion requests remained about the same throughout 2007. They also noted that the number of questions and the complexity of the questions in the more recent requests have increased. For example, earlier opinion requests usually had two to three questions, whereas some of the recent requests have had several pages of questions. According to the Commission’s staff, their review and response to advisory opinions have proven to be very time consuming—ranging from less than an hour for the simple informal request to as much as 15 days for the formal requests with multiple questions and complex issues.

Table 3 shows the status of the advisory opinions received by the Commission as of August 31, 2007. Based on the time expended during the first 8 months of 2007 in reviewing advisory opinions, OSBM projects that it will take nearly 8 months of staff time to complete the review and approval of the August 31, 2007 backlog of pending advisory opinions. Further, the Commission received additional requests for opinions after August 31, which added to the staff’s workload. The Commission staff anticipates that the number of requests for advisory opinions will increase in future years and based on their experience thus far, the complexity of the requests will also increase as more covered persons, lobbyists, and lobbyist principals come to realize the protection that these legal

**Table 3**  
**Status of Advisory Opinions as of August 31, 2007**

| Advisory Opinions | Received   | Completed  | Pending    |
|-------------------|------------|------------|------------|
| Formal            | 111        | 23         | 88         |
| Informal          | 778        | 517        | 261        |
| <b>Total</b>      | <b>889</b> | <b>540</b> | <b>349</b> |

**Source:** OSBM’s analysis of data provided by the Commission

opinions can offer them relative to not being fined, sanctioned, or disciplined for violating the Ethics Act and Lobbying Law. The Commission is also required to publish a summary of all advisory opinions annually.

### ***Ethics Education***

With the enactment of the Ethics Act and Lobbying Law in January 2007, the Commission’s staff was faced with developing and providing ethics and lobbying education presentations to an estimated 10,000 covered persons and their immediate staff, legislative employees, lobbyists, and lobbyist principals. All “public servants” and their immediate staff, legislators, and legislative employees must participate in the ethics and lobbying portions of the

**Educational Conditions and Timeframes for Covered Persons**

| Covered Persons                                | Education    | Condition   | Timeframe        |
|--|--------------|---|------------------|
| Legislators                                    | Ethics       | Election, re-election, or appointment             | Within 3 months  |
|  | Lobbying     | Election, re-election, or appointment             | Within 6 months  |
| Legislative Employees                          | Ethics       | Appointment or employment                         | Within 3 months  |
|  | Lobbying     | Appointment or hiring                             | Within 6 months  |
| Public Servants & Immediate Staff <sup>a</sup> | Ethics       | Election, re-election, appointment, or employment | Within 6 months  |
| Public Servants                                | Ethics       | Held office or position as of January 1, 2007     | Within 12 months |
| Public Servants                                | Lobbying     | Election, re-election, appointment, or hiring     | Within 6 months  |
| Lobbyists and Lobbyist Principals              | Ethics       | Optional  |                  |
| Judicial Officers <sup>b</sup>                 | Not required |   |                  |

<sup>a</sup> Immediate staff are individuals who report directly to a public servant

<sup>b</sup> Justices, judges, district attorneys, and clerks of court

Source: State Government Ethics Act and Lobbying Law

education presentations within specific timeframes. The presentations are optional for others, such as lobbyists and lobbyist principals. Judicial officers are not covered by the education requirements of the Ethics Act and Lobbying Law. Table 4 shows the timeframes in which all covered persons must participate in educational presentations. The initial ethics presentations consisted of a 2-hour presentation. All covered persons are required to attend refresher presentations every two years thereafter. All newly elected, re-elected, appointed, or employed persons are required to receive the initial 2-hour education presentations within three to six months. The

educational responsibilities of the Commission also include (1) preparing quarterly newsletters, (2) developing educational information for the Commission’s web site, and (3) preparing other educational information, such as lists of “Frequently Asked Questions” related to SEIs, advisory opinions, lobbying, and complaints.

During the first 10 months of 2007, the Commission provided education presentations to over 11,000 covered persons, direct report employees, lobbyists, and lobbyist principals. With the resignation of the Education Director on August 31, 2007, the Commission’s Executive Director and other staff assumed the responsibility for completing the scheduled education presentations for the remainder of 2007. During the first 8 months, the presentations were offered at multiple locations and usually in relatively small group settings across the State. Most of the education presentations that were provided during the last 4 months of 2007 were offered in a large auditorium setting in Raleigh or via the Information Highway Distance Education program on community college campuses across the state. As of November 1, 2007, there were still 1,144 covered persons who were required to attend an education presentation by the end of 2007. There were also an unknown number of lobbyists, lobbyist principals, and other persons that were expected to register for the remaining scheduled education presentations. All registrations for the education presentations were scheduled by calling or e-mailing the Education Program Assistant.

Because the requirement for attending an education presentation is on a 2 year cycle, the Commission’s education workload for 2008 should not be as great as it was for 2007. However, the Commission will still need to provide presentations to all persons that are newly elected, re-elected, appointed, or employed during 2008. For the next several years, the Commission will probably have an uneven education workload. Even with the additional educational duties and responsibilities, the overall time required of the Education Director and Education Program Assistant should be less because of (1) the opportunity to reach large groups via the Information Highway Distance Education program on community college campuses, (2) offering on-line registration, and (3) the decrease in the demand for educational presentation in the future.

## ***Investigation and Enforcement***

The Commission has major investigation and enforcement responsibilities under the Ethics Act and Lobbying Law, including the investigation of complaints filed by citizens. The Commission's enforcement role consists of ensuring all persons who are subject to any parts of the Ethics Act and Lobbying Law comply with these statutory requirements. The Commission is also tasked with receiving complaints<sup>4</sup> that allege unethical conduct by covered persons and legislative employees and investigating the complaints. In initiating an investigation, the Commission and its staff investigates the following types of complaints:

- The application or alleged violation of the Ethics Act or Lobbying Law,
- The application or alleged violation by legislators of Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), and
- Alleged violations of the criminal law by a covered person in the performance of that individual's official duties.

While the Commission had received relatively few complaints as of August 31, 2007, the staff anticipates that the number of complaints will increase as the public becomes more aware of the complaint process. In addition, to investigating complaints, the Commission staff is responsible for pursuing all complaints that it considers to have merit through one of three prosecutorial steps; (1) an administrative hearing, (2) the Legislative Ethics Committee, or (3) the Judicial Standards Commission. Because of the expected increase in the number of complaints and the need to prosecute some complaints, the staff anticipates an increased workload in this area.

## ***Other Duties***

In addition to the primary duties of the Commission previously addressed, there are a wide range of other duties that command the time and attention of the Commission staff. These include,

- Preparing for and participating in Commission meetings,
- Answering and handling phone calls and e-mails,
- Overseeing office operations,
- Managing human resource activities,
- Receiving, reviewing, and acknowledging receipt of complaints,
- Interacting with the General Assembly and monitoring ethics and lobbying related bills,
- Preparing newsletters and maintaining Commission's web site,
- Developing and maintaining various Commission databases,
- Preparing Commission rules,
- Interacting with the Department of the Secretary of State on rules and other issues,
- Handling requests for copies of public records and media inquiries, and
- Preparing and submitting various reports.

While each of these duties may seem minor in themselves, when considered as a whole, they require the equivalent of more than three staff positions during the first 8 months of 2007.

There are additional tasks that the Commission had not undertaken at the time of OSBM's analysis. Specifically, the Commission is required to publish a summary of all advisory opinions which are issued each year, as well as, edited copies of each issued opinion. Another task that the Commission had not started was identifying and publishing a list of all boards and commissions that must comply with the Ethics Act. The 270 boards and commissions that were previously subject to Governor Easley's 2001 executive order are the only ones currently required to comply with the Ethics Act. The Commission must review the purpose and mission of all State boards and commissions to determine whether they are subject to the Ethics Act. The review includes the 270 boards and commissions currently subject to the Act, about 30 newly created boards and commissions, and about 500 advisory boards to determine whether they are subject to the Ethics Act. Because these tasks had not been performed by the Commission's staff or included in duties and responsibilities reported in Table 1 on page 3 at the time of OSBM's analysis, OSBM could not quantify the amount of time the Commission's staff will have to devote to these

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<sup>4</sup> Sworn and signed complaints to the Commission can come from individuals, public servants, or any person responsible for the hiring, appointing, or supervising a public servant.

additional tasks. The Commission’s Executive Director believes that, in addition to eliminating the workload backlog and accomplishing all of the Commission’s duties, it is also important to reduce the time in which it takes the Commission to review and approved SEIs, respond to requests for advisory opinions, and investigate complaints.

### **Work Backlog and Overtime**

During the first 8 months of 2007, the Commission’s senior management accrued a considerable amount of overtime. Further, because of the increase in the number of persons covered by the Ethics Act and Lobbying Law, the Commission’s administrative staff developed a significant backlog in its workload, especially in the review and approval of SEIs. Senior management also had a backlog related to reviewing and responding to requests for advisory opinions. Our analysis of the time and resource allocation data provided by the Commission’s staff indicate that workload backlog and overtime accrued during the first 8 months of 2007 amounted to 2.7 FTEs of additional staffing that the Commission needed to keep up with its overall workload during this period. Table 5 shows the details regarding the workload backlog and overtime.

Much of the 2.7 FTEs of additional staffing needs are attributable to the increased responsibilities of reviewing, researching, and approving SEIs and providing education presentation during 2007. However, the workload for these two areas in future years should decrease. The in depth research performed on SEIs during 2007 will not be necessary if filers have little or no change in their personal and financial holdings in subsequent years. Because educational requirements are required biennially, the demand for education presentations will be significantly less in 2008. Further, using the Information Highway Distance Education program and online registration for ethics education will also decrease the educational demands for the two educational staff positions. Conservatively, the workload for reviewing and approving SEIs and providing ethics education should decrease by .30 and .20 FTEs, respectively. Also, the duties and responsibilities related to “implementing new Ethics Commission” that was reported by the Commission staff should not be necessary in subsequent years. Thus, the Commission should realize about two-thirds of a staff year decrease in its workload in these areas. Table 6 shows the projected decrease in the Commission’s workload for future years in these areas.

**Table 5**

**Workload Backlog and Accrued Overtime**

| Task                                  | Number of | FTE <sup>a</sup> |
|---------------------------------------|-----------|------------------|
| <b>Workload Backlog:</b>              |           | <b>Months</b>    |
| Statements of Economic Interest       | 17.59     | 1.47             |
| Lobbying Advisory Opinions            | 6.07      | .51              |
| Ethics Advisory Opinions              | .84       | .07              |
| <b>Overtime:</b>                      |           | <b>Hours</b>     |
| Executive Director                    | 505       | .29              |
| Assistant Director/Compliance Officer | 411       | .23              |
| Lobbying Director                     | 115       | .07              |
| Education Director                    | 133       | .08              |
|                                       |           | <b>Total</b>     |
|                                       |           | <b>2.72</b>      |

<sup>a</sup> FTE's based on 1,760 available work hours per year.

Source: OSBM's analysis of Commission data

**Table 6**

**Decreases in Commission Workload**

| Duties/Responsibilities     | FTE <sup>a</sup> |
|-----------------------------|------------------|
| Review and approval of SEIs | .30              |
| Ethics education            | .20              |
| Start new Ethics Commission | .15              |
| <b>Total</b>                | <b>.65</b>       |

<sup>a</sup> Full Time Equivalent

Source: OSBM's analysis of Commission data

According to the Commission’s senior staff, there are other duties and responsibilities that are reflected in the time and resource data provided by the Commission staff in Table 1 on page 3 that will require additional staffing resources or realignment of its current staffing duties and responsibilities. For example:

- The number and complexity of advisory opinion requests are expected to increase in the future, which will require more time of the Commission’s legal staff.
- The number of complaints and investigations are also expected to increase, which will have to be handled by the Commission’s legal staff, and eventually have to be pursued through the administrative hearings process, the Legislative Ethics Committee, or the Judicial Standards Commission.
- Much of the information supporting the Commission’s advisory opinion decisions and SEIs research have not been entered in the Commission database, and will require staff time to enter all of the information in the database.

Further, the Commission’s requirement to prepare an annual summary of the advisory opinions it issues and edit all issued opinions for publication and review all boards and commissions to determine whether they are subject to the requirements of the Ethics Act will also require additional staffing resources. The Commission was fully staffed as

of August 31, 2007; however, the two positions that were responsible for the education program are currently vacant. Further, the wide range of other duties that many of the staff routinely performs takes time away from the Commission's primary responsibilities of reviewing and approving SEIs, evaluating and responding to requests for advisory opinions, providing education presentations, investigating complaints, and enforcing the requirements of the Ethics Act and Lobbying Law.

## CONCLUSIONS

As a result of the Ethics Act and Lobbying Law, the workload for the Ethics Commission increased significantly in 2007. Thus, the Commission's staff was unable to keep up with the work; resulting in a significant backlog in the review and approval of SEIs and responding to requests for advisory opinions. The backlog was equal to more than two staff years of work. The Commission's senior managers also accrued two-thirds of a staff year in overtime during the first 8 months of 2007. In contrast, the workloads for other areas are projected to decrease or will no longer be necessary beyond 2007. The decreased workload equals about two-thirds of a staff year. Table 7 shows that the immediate need for additional staff is two FTEs.

While the number and complexity of advisory opinion requests may increase in future years, it is too early to determine the extent that the Commission's workload may increase. It is also too early to know the staff time necessary for the overall complaint process and the number of complaints that the Commission may have to investigate and pursue through administrative hearings, the Legislative Ethics Committee, or the Judicial Standards Commission. Similarly, the time needed for summarizing and publishing issued advisory opinions and reviewing the missions of all boards and commissions can not be quantified. While the Commission's senior manager's predicted increased workload may be valid, the amount of additional staff time required cannot be quantified until the Commission can show that the numbers of advisory opinions and complaints have increased and document the time needed to review the missions of all boards and commissions. Currently, the Commission does not have defined service statements for its various duties and responsibilities that fully define what the tasks are, how the work should be performed, and what the expected outcomes of each task/duty are. Service statements would be extremely beneficial to the Commission in quantifying its overall workload, especially for its primary duties, and the corresponding staff time needed for each duty. This type of information would provide the Commission with information to justify additional staff which it may needed in the future. Because the Commission's actual workload experience was limited to 8 months for this study, a second staffing analysis should be performed during late 2008.

## RECOMMENDATIONS

OSBM recommends that the Ethics Commission fill the two vacant education positions which will free up the time of other staff who are currently handling the education duties. In filling the Education Director's position, OSBM recommends that the Commission consider classifying the position as a lawyer/educator so that time not spent on educational matters can be applied toward handling advisory opinions, complaints, and other legal issues. OSBM also recommends that the Commission request two additional positions from the General Assembly through the budgetary process. These positions should be a lawyer and a paralegal. Further, OSBM recommends that the Commission prepare service statements for all of its duties that fully define what the duties are, how the work is performed, and the outcome of each duty which will provide the Commission with management tools to better quantify its overall workload and justify future staffing needs. OSBM also recommends that a second staffing analysis of the Commission be performed in late 2008.

**Table 7**

### Net Staffing Needs

| Staffing Needs                     | FTEs        |
|------------------------------------|-------------|
| <b>Increase:</b>                   |             |
| Backlog for SEIs                   | 1.47        |
| Backlog Lobbying Advisory Opinions | .51         |
| Backlog Ethics Advisory Opinions   | .07         |
| Overtime                           | .66         |
| <b>Total Increase</b>              | <b>2.72</b> |
| <b>Decrease:</b>                   |             |
| Review and approval of SEIs        | .30         |
| Ethics education                   | .20         |
| Start new Ethics Commission        | .15         |
| <b>Total Decrease</b>              | <b>.65</b>  |
| <b>Net Increase</b>                | <b>2.07</b> |

Source: OSBM's analysis of Commission data

## **ACKNOWLEDGEMENTS**

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## North Carolina State Ethics Commission

### Obligation of Officials and Employees Covered by the State Government Ethics Act

| Public Officials and Employees Subject to Chapter 138A (State Government Ethics Act) | Ethical Standards (Conflict Provisions) | Gifts from Lobbyists | Gifts from "Interested Persons " | Disclosure (Statements of Economic Interest) | Inquireis and Complaints | Full Hearings of Complaints | Advisory Opinions | Mandatory Education | Consequencies/ Penalties |
|--|---|----------------------|----------------------------------|--|--------------------------|-----------------------------|-------------------|---------------------|--------------------------|
| <b>Judicial Officers</b>   | ●                                       |                      |                                  | ●  | ●                        |                             |                   |                     | ●                        |
| <b>Legislatures</b>  | ●                                       | ●                    |                                  | ●  | ●                        |                             | ●                 | ●                   | ●                        |
| <b>Legislative Employees</b>   | ●                                       | ●                    |                                  |  | ●                        |                             | ●                 | ●                   | ●                        |
| <b>"Public Servants"</b>   |   |                      |                                  |  |                          |                             |                   |                     |                          |
| Constitutional Officers and their Chief Deputies/Administrative Assistants           | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Confidential Assistants/Secretaries  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Governor's Office Employees  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Exempt Employees Designated by Governor  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Heads of Principal Departments and their Chief Deputies/Administrative Assistants    | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Confidential Assistants/Secretaries  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Exempt Employees and their Secretaries   | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Judicial Employees   | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| <b>Boards and Commissions</b>  |   |                      |                                  |  |                          |                             |                   |                     |                          |
| Voting members of Non-Advisory boards  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| State Ethics Commission Members  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| <b>UNC System</b>  |   |                      |                                  |  |                          |                             |                   |                     |                          |
| Board of Governors -- Voting Members   | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| President and Vice-Presidents  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Chancellors & Vice Chancellors of all Institutions                                   | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Trustees--Voting Members of all Institutions   | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| <b>NC Community College System (NCCCS)</b>   |   |                      |                                  |  |                          |                             |                   |                     |                          |
| State Board -- Voting Members  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| President & Chief Financial Officers of NCCCS  | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| President, Chief Financial Officer of each College                                   | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| Trustees -- Voting Members of each College   | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |
| <b>Other Public Servants</b>   |   |                      |                                  |  |                          |                             |                   |                     |                          |
| Contract Employees working in or against covered positions                           | ●                                       | ●                    | ●                                | ●  | ●                        | ●                           | ●                 | ●                   | ●                        |

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Source: North Carolina State Ethics Commission