

OFFICE OF THE COUNTY AUDITOR
KANE COUNTY GOVERNMENT CENTER

WILLIAM F. KECK, C.P.A.
KANE COUNTY AUDITOR

SCOTT R. SANDERS
DEPUTY AUDITOR



719 S BATAVIA AVENUE
GENEVA, ILLINOIS 60134

630-232-5915
630-208-3838 (FAX)

STATEMENT OF ECONOMIC INTEREST REVIEW
MAY 1, 2009 FILING DEADLINE

INTRODUCTION

According to 5 ILCS 420/4A-101 of the Illinois Compiled Statutes, the following persons shall file verified written statements of economic interest with the Kane County Clerk:

1. Elected officials and candidates for nomination or election to that office.
2. Citizens appointed to zoning board of appeals, plan commission, board of review and any other governing boards for the County of Kane.
3. Employees who receive compensation for services rendered and are as follows:
 - a. Department Heads
 - b. Supervisor with direct responsibility for the formulation, negotiation, issuance or execution of contracts in an amount of \$1,000.00 or greater.
 - c. Authorized to approve licenses and permits.
 - d. Authorized to adjudicate, arbitrate or decide any judicial or administrative proceeding. Also, authorized to review this action taken by others.
 - e. Authorized to issue or promulgate rules and regulations.
 - f. Supervisors with responsibility for 20 or more employees.

Persons subject to filing requirements must disclose any economic interest specified in section 4A-102 on a form provided by the County Clerk.

Candidates for elective office receive their statements of economic interest forms with their nomination petitions. The County Clerk will request certification from Elected Officials and Department Heads for the names of employees in their departments who satisfy the criteria in 3 (a-f) above. Likewise, requests will be submitted to Elected Officials and governing boards for certification in accordance with the criteria in 1 and 2 above. The certification deadline is set by state statute. When persons required to file are certified, the County Clerk will submit to them a Statement of Economic Interest form on or before April 1 of each year.

Candidates for elective office must file their statement of economic interest form with their nomination petitions unless this form has been filed with the government unit within a year preceding the deadline. All other persons required to file a statement of economic interest form must do so by May 1 of each year. An exception is when a person takes office or is otherwise required to file a statement of economic interest form within 30 days prior to May 1 of the year. Then, the deadline is extended to May 31 without penalty.

Within seven (7) days after the May 1 filing deadline, the County Clerk will notify each person who has failed to meet this deadline by certified mail. Such person shall file their statement of economic interest form by May 15 along with a \$15.00 late filing fee. Any such person who fails to file by May 15 shall be subject to a penalty of \$100.00 per day from May 16 until their filing date. This penalty shall be assessed in addition to the \$15.00 late filing fee. Failure to file a statement of economic interest form by May 31 shall result in forfeiture according to Section 4A-105 of this Act. Also, within seven (7) days of the May 31 filing deadline provided for exceptions, the County Clerk will notify each person who has failed to meet this deadline by certified mail. Such person shall file their statement of economic interest form by June 15 along with a \$15.00 late filing fee. Any such person who fails to file by June 15 shall be subject to a penalty of \$100.00 per day from June 16 until their filing date. This penalty shall be assessed in addition to the \$15.00 late filing fee. Failure to file a statement of economic interest form by June 30 shall result in forfeiture according to Section 4A-105 of this Act. This section provides for forfeiture of office or position of employment when prior notification has been given by the County Clerk. In the absence of prior notification, there will be a 30-day grace period from the actual notice by the County Clerk of failure to file a statement of economic interest.

From the certified lists, the County Clerk shall compile an alphabetic listing of persons required to file statements of economic interest. Within thirty (30) days after due dates, the County Clerk shall mail to the State Board of Elections a true copy of that listing which identifies those who have filed statements of economic interest. Persons on the listing who have failed to file a statement of economic interest before the filing deadline shall be noted on this listing by the County Clerk and a copy of same is sent to the State's Attorney office.

SCOPE OF EXAMINATION

Statements of economic interest forms for county employees and appointees were filed in a "County Board" folder. Offices, departments and commissions were separated within the "County Board" folder. When an employee of another governmental unit served on the county board or commission, the statement of economic interest was filed with the other governmental unit. Documents for county employees required to file and members of county commissions were reviewed for the filers compliance with the requirements of 5 ILCS 420/4A.

RECAP OF FILING INFORMATION

<u>Responses to questions on the form</u>	<u>Number of responses</u>
#1 Ownership > \$5,000 and dividends > \$1,200 from entity doing business with County	9
#2 Professional organization with income > \$1,200	25
#3 Professional service fees received > \$5,000	18
#4 Capital gain received > \$5,000	4
#5 Filing fees paid by entity with ownership interest > \$5,000	2

#6 Entity doing business with County has non-professional services income > \$1,200	8
#7 Employment with another unit of government	31
#8 Received a gift or honorarium > \$500 from an entity	4

FINDINGS

FILING EXCEPTION

Form filed after deadline	11
No filing date identified by filer on form	35
Form not signed by filer	1
Forms missing in designated files	9
Fines assessed for late filing	1
Fines collected for late filing	1
Unable to determine whether assessed or collected	10

For the filers who did not enter the filing date, we recognized the date received by the County Clerk as the official filing date. Of the forms filed after May 1, 2009 filing deadline, we were not able to determine whether fine assessment notices were mailed to delinquent filers. The only notation on a form received was an amount less than the statutory assessment for the term of delinquency. A written notice is required to enforce the statutory penalty for failure to file.

CONCLUSION

For Kane County offices, departments, boards and commissions, statement of economic interest forms are imprinted with the name of the filer and all that apply. It was not considered necessary to identify them in the question pertaining to employment with another unit of government.

Statements of Economic Interest files with the County Clerk are properly categorized. The number of missing forms is apparently due to misfiling and would indicate inadequate accountability over the filing of forms. We requested verification of their compliance from the filers whose forms we were unable to locate. With assistance from the County Clerk's office and response to our verification process, we were able to account for the missing files.

There is no apparent recordkeeping of delinquent notices and proper follow-up of the collection of assessments for delinquent filing.

All questions were answered by County employees, members of boards and commissions and with the exception of delinquent filers, appear to be in compliance with the statutory requirements of 5 ILCS 420/4A.

Although all questions were answered on the forms available for our inspection, we had requested a ruling in a previous audit and the State's Attorney opined that unanswered questions do not represent an invalid filing of a Statement of Economic Interest.

RECOMMENDATION

There needs to be procedures in effect to account for all statement of economic interest forms filed with the County Clerk.

COUNTY CLERK RESPONSE

There is a procedure to account for all Economic Interest Statements filed with the County Clerk and it is the same procedure we have used for several years. (Included in this report as Exhibit A.)

There is no apparent recordkeeping system to account for fines assessed against filers who do not comply with the May 1, 2009 filing deadlines.

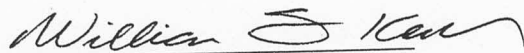
The only record of fines collected is a notation on the form by the clerk responsible for the statement of economic interest forms. There is no record of fines collected by other clerks in the office. Fines need to be assessed and collected in all instances of failure to file by the deadline. There needs to be a record keeping system to account for all fines assessed and collected in the office.

COUNTY CLERK RESPONSE

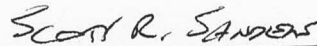
Account of fines—we have always rung up the fines under miscellaneous in the cash register. We have requested that Devnet and EIS as a separate item to our registers. We will also note on the EIS form when a fine is paid and the information will be included with the filing information in our data base.

In accordance with KCC Sec. 2-192 (c) (2) "within thirty (30) days of receipt of the internal audit report, each county officer, agent or division shall submit a written response to the county auditor, outlining the action that has been taken in response to the recommendations made by the auditor."

Respectively Submitted,



William F. Keck, CPA
County Auditor



Scott R. Sanders
Deputy Auditor

EXHIBIT A

EIS Procedures

**Illinois Governmental Ethics Act and State Gift Ban Act, 5 ILCS 420/1-101 et. seq.
Refer to the Amended Illinois Governmental Ethics Act, Public Act 88-605 effective September 1,
1994****

By statute, the County is not responsible for notifying the Units of Government. It is the responsibility of the Units of Government to notify the Secretary of State and the County Clerk. As a matter of courtesy and convenience, the County Clerk notifies all units of government in Kane County of their responsibility.

September – Make sure we have enough folded EIS forms on hand and that they are rubber-stamped HOME ADDRESS at the left-hand edge of the third line at the top of the form. If we do not have enough forms, call and request more from the Index Division in Springfield.

Determine if there are enough envelopes to accommodate the different mailings that will be done. Make sure we have plenty of regular envelopes, window envelopes and self-addressed return envelopes

The week after Thanksgiving: update the information on the color-coded (blue, green & yellow) forms that will be sent to the units of government. Such as change the *no later than* date, and that our address, phone & fax numbers are correct on all three forms.

Make sure we have one ream of canary, green and blue #20 paper in stock. The letters to the units and KC departments are to be copied onto County Clerk letterhead. The colored forms are to be copied onto the correct color paper. Make necessary copies of all three sheets for mailing:

Green - Elected Officials and Members of Governing Boards
Blue - Members of Plan Commissions and Zoning Boards of Appeals
Canary - Administrative Employee

Look at last year's unit lists and see who provided the information and put that person's name on the mailing label for that unit of government. Same for the KC department.... also, update names and address of Units of Government in the Labels file.

Verify the list of Kane County Department Heads.

Revise the Unit of Government letter for the upcoming mailing.....Is the deadline date correct?

The first week of December – Print the address labels for the Departments & Units of Government.

The third week of December -- Revise the EIS Units of Government and Kane County Departments memos. Make copies of the memos on letterhead (however many are needed) along with copies of the green, blue and yellow forms. Collate the memo with the three colored sheets and stuff in envelopes. EXCEPT the ones going to the KC departments; send those interoffice.

The last working day in December -- Run a copy of the complete Master List and file with this years EIS papers.

Statute requires that all of the Units of Government return their lists of individuals to the County Clerk by February 1. When we receive the lists of individuals who are required to file, the names and addresses along with the identifying Unit of Government codes, are entered into the EIS Master File. Should there be a Unit of Government that does not have an identifying code, one should be assigned to it. See the EIS computer documentation for procedures on entering and editing the EIS code file, in addition to how to add unit codes.

The second week of January -- Contact all Units of Government who have not yet submitted their lists. This is to make sure that the forms get sent to the Clerk's office by the deadline, and also to verify that the Units of Government received the information that was sent.

February 1 -- Last day the Units of Government may certify to the County Clerk's office list of names and residence addresses of any persons required to file an Economic Interests Statement.

After all of the lists have been received from the Units of Government and County Department Heads and the names have been entered into the computer, email the Helpdesk c/o Janine to delete inactivated names.

The first week of March -- Revise the Individual Notification letter, Make as many copies needed sent On County Clerk Letterhead.

The second week of March -- email the Helpdesk c/o Janine to address all of the EIS forms. After the forms are run, I.T. will burst the forms to prepare them to be folded.

Take printed EIS forms over to the letter folder and fold all forms.

The second or third week of March--Using window envelopes, insert folded Individual Notification letter, a self-addressed return envelope, and the yellow EIS form. The bottom portion of the EIS form should show through the window of the envelope.

No later than March 24 -- Mail EIS Forms.

April 1 -- Last day for the County Clerk's office to notify individuals that are required to file a Statement of Economic Interests.

As completed EIS forms are returned, they are checked to make sure that they have been completed properly, signed and dated. They are then stamped with the date received on the top portion and on the bottom portion. The bottom portion is then removed and returned to the individual in a window envelope as their receipt. The date received is then entered into the computer as outlined in the EIS computer procedures.

If the form has *not been filled out correctly* then send the form back with a letter explaining what they need to do and include a pre-addressed envelope.

2nd week of April -- Review the reminder postcard and make any necessary revisions. Notify Info Tech of any changes so that they can modify the program that prints them. IT delivers the postcards to us. They are in numerical order by zip code.

Print out all delinquents by Unit. Call or Fax all Units of government and advise them of who in their unit has not returned an EIS form and could they tell these people we need their form before May 1.

3rd week of April -- Revise the Delinquent Certified letter. Determine approximately how many certified letters will be sent out, Make sure that there are enough return postcards to accommodate the certified mailing. If there are not enough, contact the post office to obtain them.

Also, contact all of the Kane County employees who have not yet filed their Statements of Economic Interests and remind them of their responsibility.

Revise the Penalty Payment letter

Again, call UNITS and KC Departments and let them know who in their department or unit has not returned an EIS form to us and that the form needs to be in our office THIS WEEK on the unit sheet of

May 1-- Deadline for filing Statements of Economic Interests.

The County Clerk is required, within 7 days after the deadline, to give notice by certified mail to persons who have failed to file. Run a list of delinquents on the afternoon of May 1st to get a count. Info Tech will then run (1) another EIS form,

May 2 -- Prepare the certified mailing. Enclose the EIS form, the Delinquent Certified letter, and a self-addressed return envelope in the certified envelope. Place the certified number label on the front of the envelope. Stamp the County Clerk's name and address to the back of one of the green return post cards. Attach the postcard to the back of the certified envelope and place the name and address label in the spot marked "Article addressed to..". Make sure that the name on the EIS form and the postcard are the same.

If May 1 should fall on a Sunday, we will accept anything that is post marked May 2 because there is no mail service on Sunday. If May 1 should fall on a Saturday or a Sunday, we will also accept any forms that are hand-carried to our office on the 2nd because our office was not open on the 1st.

Forms received after May 1 without the \$15 penalty fee cannot be accepted. Date-stamp the envelope and attach it to the form. Send the individual a copy of the Penalty Payment letter. Do not post it in the computer until the payment is received.

Forms received after May 1 **with** the \$15 fee can be processed. Date-Stamp the top and bottom portion of the form, remove the bottom receipt and send it to the individual with their register receipt for the fee. Note on the top right-hand corner of the form that the individual paid the fee, the date and the initials of the individual who accepted the payment.

May 16 -- Run a list of all of the overdues on EIS computer. After the County Clerk has examined the list, send a copy of the list to the Kane County State's Attorney's office, Civil Division.

The week of June 10 -- Run 1 copy of the EIS Master List. Using the Copy Machine, Make 1 additional copy of the Master List for our files. A hard copy of the list should be sent to the State Board of Elections at the following address:

1020 S. Spring
P.O. Box 4187
Springfield, IL 62708

Statute requires that within 30 days of the due date, the County Clerk shall mail to the State Board of Elections a true copy of the listing showing those who have filed such statements. The second copy should be retained on file by our office.

**** IT IS NOT THE FUNCTION OF THE COUNTY CLERK'S STAFF TO INTERPRET THE STATE STATUTES. REFER ALL QUESTIONS OF THIS NATURE TO THE INDEX DIVISION, SECRETARY OF STATE'S OFFICE IN SPRINGFIELD AT (217)782-7017.**

Revised 04/10

M:\vital\wordprofiles\EISPROCEDURES