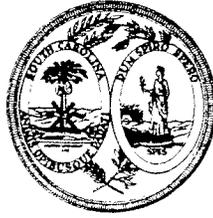


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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

March 21, 2000

The Honorable James A Preacher, Jr.
Chief of Police, Town of Norway
P.O. Box 127
Norway, SC 29113

Dear Chief Preacher:

You have asked whether a Magistrate who serves as a municipal judge by contract may also draw salary for employment in a different capacity with a State agency. Dual Office holding restrictions of the South Carolina Constitution should not apply to these circumstances so long as the position with the State agency is one of employment rather than an office. art. VI § 3. I am not aware of any statutory restrictions that would bar this dual employment. Although the Appropriations Act, Act No. 100, Part IB, § 72.24, 1999 S.C. Acts §72.24 prohibits a State employee from receiving pay from more than one agency except as permitted by Reg. 19-702.09, this provision would not apply to salary paid by a municipality. I do not know whether the municipality where the judge serves has any policies that would apply to these circumstances.

If a conflict were to develop in this situation, the judge would need to consult the provisions of the Code of Judicial Conduct, Rule 501, SCACR or the State Ethics Act, S.C. Code Ann. § 8-13-1 (1986), *et seq.* as to any issue arising in the State employment. If you have further questions, regarding this matter, you may wish to inquire with the Commission on Judicial Conduct, the State Ethics Commission. You also mentioned the employment of the Magistrate's spouse with the agency. Any questions concerning this matter would need to be referred to these Commissions if a conflict developed.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions

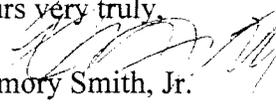
The Honorable James A Preacher, Jr.

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asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion. If you have further questions, please let me know.

Yours very truly,


J. Emory Smith, Jr.

Assistant Deputy Attorney General