

1984 WL 249825 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1984

\*1 The Honorable Harvey S. Peeler  
Senator  
District No. 5  
504 Gressette Building  
Columbia, South Carolina

Dear Senator Peeler:

You have requested the opinion of this Office on the question of whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for a person to serve on the Board of Registration of Cherokee County and also serve on the Cherokee County Commission on Alcohol and Drug Abuse.

[Article XVII, § 1A of the South Carolina Constitution](#) provides that ‘. . . no person shall hold two offices of honor or profit at the same time.’ For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 \(1907\)](#). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 \(1980\)](#).

The Board of Registration for Cherokee County is established by [§§ 7-5-10 et seq., Code of Laws of South Carolina \(1976\)](#); this chapter also provides for the terms of offices and duties of the members. This Office has previously concluded that members of boards of registrations are officers for dual office holding purposes. [See, 1982 Ops. Atty. Gen., dated October 20, 1982 and October 22, 1982, and 1983 Op. Atty. Gen., dated September 6, 1983 \(copies enclosed\)](#).

The Cherokee County Commission on Alcohol and Drug Abuse was created by Act No. 1380, 1974 Statutes at Large and by an ordinance of Cherokee County, dated May 6, 1980. The statute and ordinance both provide for the tenure of the members of the board and their powers and duties, which include the power to purchase land, enter into contracts, employ personnel, expend monies and contributions and submit a comprehensive county alcohol and drug abuse plan to county council. This Office has determined that a member of a county alcohol and drug abuse commission was an officer for dual office holding purposes. [See, 1981 Op. Atty. Gen., dated December 10, 1981. \(copy enclosed\)](#). In light of this prior opinion and the similarity of the duties of the Cherokee County commission, members of the Cherokee County Commission on Alcohol and Drug Abuse are probably officers.

Based on the foregoing, it is the opinion of this Office that a person serving on both the Board of Registration for Cherokee County and the Cherokee County Commission on Alcohol and Drug Abuse would probably be violating the dual office holding provisions of the South Carolina Constitution.

Sincerely,

Carol P. Black  
Staff Attorney

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