

1984 WL 249900 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 4, 1984

\*1 Mr. D. Wilson Horton  
Regional Forester  
State Forestry Commission  
Post Office Box 21707  
Columbia, South Carolina 29221

Dear Mr. Horton:

In a telephone conversation to this Office you indicated that presently the position of county forest ranger in Union County is vacant. You indicated to me that such position is that authorized by [Section 48-23-96, Code of Laws of South Carolina](#), 1976, as amended. You also indicated that pursuant to [Section 48-33-50, Code of Laws of South Carolina](#), 1976, a county forestry board is authorized for each county in this State. Pursuant to [Section 48-33-60, Code of Laws of South Carolina](#), 1976, ' . . . the county ranger, fire wardens, towermen and all other county forest fire protection officers shall be employed, retained or dismissed only with the consent of the county forestry board.'

Referencing the situation in Union County, you indicated that an individual is being considered for the position of county forest ranger whose uncle is a member of the county forestry board. You have questioned whether the uncle who serves on such board may take part in any votes or actions affecting the appointment of his nephew for the position of county forest ranger.

You further stated that should the nephew become county forest ranger in Union County, he would be in a position of supervising his father. You questioned whether this is permissible.

I am unaware of any state statutory provisions which would prevent the uncle, as a member of the Union county forestry board, from taking any action affecting the appointment of his nephew as Union County forest ranger. In particular, I have reviewed the provisions of this State's Ethics Act, [Sections 8-13-10, et seq., Code of Laws of South Carolina](#), 1976, as amended, and there appear to be no provisions in such Act which are pertinent to the actions of the uncle in such regard. Moreover, the provisions of this State's anti-nepotism statute, [Section 8-5-10, Code of Laws of South Carolina](#), 1976, are inapplicable to such situation. The ruling of the South Carolina Supreme Court in [State v. Cumbee, 276 S.C. 207, 277 S.E.2d 146 \(1981\)](#), as well as the many opinions of this Office construing this statute indicate that the same applies only to the heads of the various agencies of the several branches of State government. See, e.g., 1964 Ops. Atty. Gen. 131; 1979 Ops. Atty. Gen. 158. Thus, the prohibition on nepotism scope and effect. Inasmuch as the uncle serves on a county scope and effect. Inasmuch as the uncle serves on a county board, the provisions of such statute are inapplicable to him.

As to your remaining question concerning the propriety of the situation where the referenced individual if he became a county forest ranger would be in a position of supervising his father, a county forest warden, I am unaware of any present State statutes or regulations presently effective which would prohibit such. You have indicated that there are no separate regulations or policies of the State Commission of Forestry which would prohibit such practice. However, a State Personnel Regulation is pending which if it becomes effective would be applicable to such situation if the appointment of the individual as county forest ranger takes place after July 1, 1984. Pursuant to proposed Regulation 19-707.02 J,

\*2 'Persons related by blood or marriage within the sixth degree shall not be employed concurrently within any one agency of State government (1) if such employment will result in an employee supervising a covered relative, or (2) if such employment would result in an employee occupying a position having influence over a covered relative's employment, promotion, salary administration or other related management or personnel matters; . . .'

Again, it is anticipated that such Regulation would be effective only as to employee situations which occur after July 1, 1984. Such Regulation states specifically that ‘. . . any action taken by an agency prior to July 1, 1984 pursuant to its then-existing internal nepotism policy shall not be affected by the adoption of this section.’ If, however, the proposed employee action occurs after July 1, 1984, the Regulation would probably be applicable. However, as stated, the referenced regulation is still pending and unless it becomes effective, it would be of no force and effect.

If there are any questions, please advise.

Sincerely,

Charles H. Richardson  
Assistant General Attorney

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