

1983 S.C. Op. Atty. Gen. 15 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-5, 1983 WL 142676

Office of the Attorney General

State of South Carolina

Opinion No. 83-5

March 10, 1983

\*1 The Honorable Alex Harvin, III  
Majority Leader  
House of Representatives  
504 Blatt Building  
Columbia, South Carolina 29211

Dear Alex:

You have requested that I advise you as to whether a member of the Clarendon County Board of Education (County Board) may bid on a contract for landscaping being let by a Clarendon County school district. According to your information, the board of trustees for the district will accept the bids rather than the County Board. The County Board appoints the members of the district board of trustees. Act 236, Acts and Joint Resolutions of South Carolina, 1981.

[Section 59-69-260 of the Code of Laws of South Carolina \(1976\)](#) states that '[i]t shall be unlawful for any . . . member of a county board of education [and other named school officials] . . . to buy, discount or share, directly or indirectly, or be in any way interested in any teachers pay certificate or other order on a school fund . . . (emphasis added)'. Violation of this provision constitutes a misdemeanor.

If the County Board member were to win the contract in question, he would have a direct interest in 'an order on a school fund' under [§ 59-69-260](#). The limited authority of the County Board as to the district board of trustees apparently would not include approval of that contract (see §§ 59-15-20, 59-15-40, 59-19-510, 59-69-220, 59-69-230, 59-69-270, and 59-71-30; acT 236 of 1981, Act 319 of 1973, Act 557 of 1971); however, although no Supreme Court case has considered the question, [§ 59-69-260](#) does not expressly restrict itself to situations in which a school official has direct control over the school funds in which he has an interest. Therefore, a possibility exists that a court could construe [§ 59-69-260](#) to be applicable here. See 1965-66 Ops. Atty. Gen. #2023, p. 88 and #2182, p. 315. As noted above, a criminal penalty is imposed for a violation of this statute.

If I may be of further assistance, please do not hesitate to contact me.

With best regards, I am  
Sincerely,

T. Travis Medlock  
Attorney General

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