

1977 S.C. Op. Atty. Gen. 87 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-99, 1977 WL 24441

Office of the Attorney General

State of South Carolina

Opinion No. 77-99

April 7, 1977

*1 David A. Nixon
Williamsburg County Council
Kingstree, SC 29556

Dear Mr. Nixon:

Your request for advice has been referred to me for reply.

You have asked if the dual office prohibition of the South Carolina Constitution would prohibit a county councilman from serving as a board member on the Planning Commission of Williamsburg County.

The enclosed opinion found that a position on the Charleston County Planning Board would be considered an office within the meaning of the State Constitution. A comparison of the duties and powers of this Board and that of the Planning Commission of Williamsburg County leads one to the conclusion that a position upon the latter is also an office. The Commission was created by statute and the terms for its members is fixed. In addition to its duties and powers generally conferred by 1972 Acts and Joint Resolutions 3985 (Act No. 1973), the commission has all the powers, duties and responsibilities set forth in 1967 Acts and Joint Resolutions 863 (Act No. 487). An examination of these powers indicate that some degree of the sovereign power is being exercised on a continuing basis.

This Office has consistently advised that a position on a county council constitutes an office. Therefore, the same individual could not hold an office on the Planning Commission and the county council at the same time.

If I can be of any further assistance, please let me know.

Sincerely yours,

Richard D. Bybee
Legal Assistant

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