



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

May 24, 1995

The Honorable Glenn F. McConnell, Chairman
Charleston County Joint Legislative Delegation
2 Courthouse Square, Room 307
Charleston, South Carolina 29401

RE: Informal Opinion

Dear Senator McConnell:

By your letter of May 17, 1995, to Attorney General Condon, you have sought an opinion as to whether an individual may serve concurrently on the local Foster Care Review Board and on the local Board of Assessment Appeals without such service constituting dual office holding.

Article XVII, Section 1A of the South Carolina Constitution provides that "no person may hold two offices of honor or profit at the same time ...," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or a notary public. 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).

This Office has advised previously that one who would serve on a local Foster Care Review Board would not be considered an office holder for dual office holding purposes, due to the advisory nature of the position. Op. Att'y Gen. dated December 14, 1987.

This Office has advised previously that one who would serve on a board of assessment appeals would be considered an office holder for dual office holding purposes.

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Ops. Att'y Gen. dated July 24, 1991 and October 21, 1985 (Lee County Tax Appeals Board); December 11, 1990 (Horry County Board of Assessment Appeals); and June 1, 1987 (Richland County Board of Assessment Appeals).

Based on the foregoing, I am of the opinion that an individual may serve concurrently on a local Foster Care Review Board and on a local board of assessment appeals without contravening the dual office holding prohibitions of the South Carolina Constitution.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of an official opinion. I trust that it satisfactorily responds to your inquiry and that you will advise if clarification or additional assistance should be necessary.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General