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The State of South Carolina



Office of the Attorney General

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August 9, 1991

The Honorable Richard C. Taylor
Member, Dillon County Board
of Social Services
Box 1307
Dillon, South Carolina 29536

Dear Mr. Taylor:

You have advised that you presently serve on the Board of the Dillon County Department of Social Services and that you have recently been appointed to the Dillon County Development Board. You have asked whether concurrent service on these two boards would constitute dual office holding in violation of the state constitutional prohibitions.

Article XVII, Section 1A of the state 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 opined on numerous occasions that one who serves on a county board of social services would be considered an office holder for dual office holding purposes. See, for examples, Ops. Atty. Gen. dated January 7, 1991 (copy enclosed); September 7, 1989; and March 16, 1989, among many others.

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A review of the ordinance of Dillon County Council establishing the Dillon County Development Board shows that members must meet a residency requirement to serve on the Development Board, though no other requirements for members are specified. A term of three years is specified. No oath is required to be taken. You advise that while per diem and travel reimbursement payments are authorized by the ordinance, such are not provided by county council. Duties are specified within the ordinance and appear to involve the promotion and advertisement of Dillon County rather than an actual exercise of sovereign power. Considering all of the foregoing, members of the Dillon County Development Board seem to be analogous to members of those development boards which, this office has concluded, would likely not be office holders. See Ops. Atty. Gen. dated October 18, 1988 (Kershaw County); January 31, 1985 (Marlboro County); July 27, 1989 (Hampton County); April 5, 1990 (Florence County); and May 4, 1982 (Greenville County).

Based on the foregoing, it is our opinion that your concurrent service on the Board of Dillon County Department of Social Services and the Dillon County Development Board would likely not constitute dual office holding.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an
Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions