

The State of South Carolina



Office of the Attorney General

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September 7, 1989

The Honorable Thomas L. Moore
Senator, District No. 25
Post Office Box 684
Clearwater, South Carolina 29822

Dear Senator Moore:

You have asked for the opinion of this Office as to whether the dual office holding prohibitions of the State Constitution would be contravened by one serving on the Aiken County Board of Social Services who was subsequently elected to serve on Aiken City Council.

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 hold an office for dual office holding purposes. See, for example, Op. Atty. Gen. dated March 2, 1989, a copy of which is enclosed.

Likewise, on numerous occasions this Office has opined that one who serves on a city council holds an office for dual office holding purposes. See, for example, Op. Atty. Gen. dated October 18, 1988, a copy of which is enclosed.

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As to the effect of the assumption of a second office when an individual was then holding another office, when both offices fall within dual office holding considerations, I am enclosing a copy of Op. Atty. Gen. dated February 10, 1984. In particular, the final paragraph on page two will provide guidance in the situation which you have described.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/nw
Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
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