

# The State of South Carolina



## Office of the Attorney General

**T. TRAVIS MEDLOCK**  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE 803-758-3970

February 11, 1986

The Honorable Liston D. Barfield  
Member, House of Representatives  
Post Office Box 1734  
Conway, South Carolina 29526

Dear Representative Barfield:

You have asked for the opinion of this Office as to whether an individual may serve concurrently as a game warden and on a county board of social services without violating the dual office holding prohibitions of the State Constitution.

Article XVII, § 1A of the South Carolina Constitution provides that "... no person shall hold two offices of honor or profit at the same time." 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).

Game wardens, or conservation officers, as the position is sometimes called, are appointed by the South Carolina Wildlife and Marine Resources Commission pursuant to Section 50-3-310 et seq., Code of Laws of South Carolina (1976). Every game warden is required to take an oath and execute a bond, before entering his duties, by Section 50-3-330; after oaths and bonds have been duly filed, a commission is issued to the warden. The term of office is specified by Section 50-3-310 to be two years. Duties and powers of game wardens are provided in Sections 50-3-340, -370, -380, -390, -395, -400, and -410; generally, the game wardens are given power and responsibility to enforce the bird, nonmigratory fish, and game laws and to prosecute violators

The Honorable Liston D. Barfield  
Page 2  
February 11, 1986

thereof. A thorough discussion of game wardens or conservation officers is found in Op. Atty. Gen. No. 2827, dated February 4, 1970, enclosed. Clearly, as a law enforcement officer, a game warden or conservation officer would exercise sovereign power and thus would be an officer for dual office holding purposes.

The second position about which you inquired was membership on a county board of social services. This Office has repeatedly stated that membership on this particular board would constitute an office for dual office holding purposes. See Ops. Atty. Gen. dated March 6, 1979 and January 16, 1979, for examples (enclosed).

To summarize, it is the opinion of this Office that one who would serve concurrently as a game warden or conservation officer and on a county board of social services would most probably hold dual offices in contravention of the State Constitution.


Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

  
\_\_\_\_\_  
Robert D. Cook  
Executive Assistant for Opinions

cc: Mr. Tillman Williams  
Route 4  
Box 294  
Conway, South Carolina 29526