

1984 WL 249925 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 11, 1984

*1 The Honorable T. Bruce Smith, II
Senator
District No. 9
Post Office Box 563
Bishopville, South Carolina 29010

Dear Senator Smith:

You have asked this Office to examine two combinations of offices to determine whether the prohibition against dual office holding in the Constitution of the State of South Carolina may be contravened if one person held both offices simultaneously in each situation. The two combinations are:

1. Agent in charge of a county probation office (probation officer) and member of a county Board of Voter Registration; and
2. Member of a city council and member of a county Board of Voter Registration.

[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).

1. This Office has examined the position of probation officer previously and has concluded that one who serves as a probation officer occupies an office for dual office holding purposes. [See, Ops. Atty. Gen.](#) dated July 21, 1981, September 27, 1982, and Op. No. 1769 dated December 16, 1964 (copies enclosed).

This Office has also previously examined the position of a member of a county Board of Voter Registration and has concluded that a member of this board would hold an office for dual office holding purposes. [See, Ops. Atty. Gen.](#) dated October 20, 1982 and October 22, 1982 (copies enclosed). Thus, one who would serve simultaneously as a county probation officer and member of the county's Board of Voter Registration would most probably contravene the dual office holding provisions of this state's Constitution.

2. This Office has issued numerous opinions on the position of city councilman serving as an officer for dual office holding purposes. [See, Ops. Atty. Gen.](#) dated April 29, 1965 and January 31, 1984 (copies enclosed). As stated in part 1, a member of a county Board of Voter Registration would hold an office. Therefore, one who would serve simultaneously on a city council and on a county's Board of Voter Registration would most probably contravene the dual office holding provisions of the state Constitution.

We trust that we have satisfactorily responded to your inquiry. If you need additional information or clarification, please advise.
Sincerely,

Patricia D. Petway

Assistant Attorney General

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