

1983 WL 182016 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 30, 1983

*1 Mr. Dolphus C. Medley
Cherokee County Administrator
201 North Limestone Street
Post Office Box 866
Gaffney, South Carolina 29342-0866

Dear Mr. Medley:

You have requested the opinion of this Office on the question of whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for a person to serve on the State Development Board and also serve on the Cherokee County Development Board.

[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).

This Office has previously determined that a member of the State Development Board holds an office for dual office holding purposes. [See](#), 1978 Op. Atty. Gen., dated August 4, 1978. (Copy enclosed).

The Cherokee County Development Board was created pursuant to Act. No. 186 of the 1957 Acts and Joint Resolutions. The members were empowered to employ necessary personnel and enter into contracts, and were given other necessary powers incident to the purposes of the Act. By Act No. 186, members of the board were appointed by the Legislative Delegation; however, County Council has subsequently assumed the power to appoint members of the board. Though the method of appointment of members has changed, the members of the board continue to exercise the powers and duties of the board as it was originally created by Act No. 186. It appears, therefore, that a member of the Cherokee County Development Board would hold an office as he exercises powers of the sovereign in that position. This Office has expressed the opinion that a member of a similar county development board holds an office for dual office holding purposes. [See](#), 1980 Op. Atty. Gen., dated August 13, 1980 (copy enclosed).¹

Based on the foregoing, it is the opinion of this Office that a person serving on the State Development Board and as a member of the Cherokee County Development Board would be violating the dual office holding provisions of the South Carolina Constitution.

Sincerely,

Carol P. Black
Staff Attorney

Footnotes

- ¹ We are unaware of the existence of any county ordinance pertaining to appointment, powers, or duties of board members. It may be necessary to re-evaluate this opinion in the event such an ordinance is either found or enacted.

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