

1980 WL 121187 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 22, 1980

*1 Honorable Richard W. Riley
Governor
State of South Carolina
Post Office Box 11450
Columbia, South Carolina 29211

Dear Governor Riley:

In response to your request for an opinion from my Office as to the constitutionality of an act of the General Assembly which amends [Section 50-3-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, by providing that the chairman of the Agriculture and Natural Resources Committee (House Committee) of the House of Representatives may designate another Committee member to serve ex officio on the Wildlife and Marine Resources Commission (Commission) in his stead, my opinion is that such legislation is most probably constitutional. There is authority to the effect that a legislator may serve on certain other public bodies without violating the dual office-holding provisions of the South Carolina Constitution if that service is limited to bodies as to which membership is of an ex officio nature, *i.e.*, by virtue of his office as a legislator. *Cf.*, [Ashmore v. Greater Greenville Sewer District](#), 211 S.C. 77, 44 S.E.2d 88 (1947); *see also*, Ops.Atty.Gen. No. 77-41 at 42; 1976-1977 Ops.Atty.Gen. No. 171 at 136. Inasmuch as the chairman of the House Committee can most probably serve ex officio as a Commission member, I think that he can also designate a House Committee member to serve ex officio for him without delegating legislative authority in violation of [Article I, Section 8 of the State Constitution](#). I would point out, however, that the legislation provides 'or his designee' which must be interpreted to include only another Committee member. If his designee were not another Committee member, then such designation would, in my opinion, constitute an unlawful delegation of legislative authority. *See generally*, [DeLoach v. Scheper](#), 198 S.C. 21, 198 S.E. 409 (1938).

Sincerely,

Daniel R. McLeod
Attorney General

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