

1980 WL 120714 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 13, 1980

\*1 G. Larry Inabinet, Esquire  
Brown, Jefferies & Boulware  
Post Office Box 248  
Barnwell, South Carolina 29812

Dear Mr. Inabinet:

You have asked whether the dual office holding provision of the Constitution would be violated if an individual simultaneously served on a town council and was a member of the South Carolina State Board of Funeral Service. The case of [Sanders v. Belue, 78 S.C. 171 58 S.E. 762](#), sets forth the definition of officer for dual office holding purposes:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing, and are not occasional or intermittent, is a public officer.

This office has on numerous occasions indicated that a position on a town council is an office for dual office holding purposes. The question thus becomes whether membership on the State Board of Funeral Service is an office for dual office holding purposes. The Board of Funeral Service is created by [§ 40-19-30 of the 1976 Code](#). The powers and duties of this Board are found in the sections of the Code immediately following, and the Board clearly has the authority to license embalmers, funeral directors, undertakers and morticians. In addition to the licensing authority, the Board and its members are authorized to issue subpoenas and hold hearings with respect to its licensing authority. Clearly a member of this Board is an officer for dual office holding purposes.

Accordingly, it is the opinion of this office that an individual who simultaneously serves on a town council and on the State Board of Funeral Service would violate the Constitutional provision which prohibits dual office holding.

Sincerely,

James W. Johnson, Jr.  
Assistant Attorney General

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