

1977 WL 37226 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 21, 1977

*1 Mr. William P. Wallace
Marlboro County Supervisor
Bennettsville, South Carolina 29512

Dear Mr. Wallace:

In response to your request for an opinion from this office as to whether or not you, as Marlboro County Supervisor, can hire your son to work at the Marlboro County landfill, my opinion is that you cannot if your son is a member of your household, i.e., if he shares your residence with you.

The anti-nepotism statute [§ 50-101, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended] does not apply to counties or municipalities. See, e.g., 1963-64 OPS.ATTY.GEN. No. 1681. The provisions of Act No. 283 of 1975, the 'home rule' legislation, require that:

[a]ny county officer or employee who has a substantial financial interest in any business which contracts with the county for . . . services or who personally engages in such matters shall make known that interest and refrain from . . . participating in his capacity as a county officer or employee in matters related thereto. . . . § 14-3715, CODE OF LAWS OF SOUTH CAROLINA, 1962, (Cum. Supp.)

The recently-enacted ethics legislation [§§ 1-360.41 through 1-360.68, CODE OF LAWS OF SOUTH CAROLINA, 1962, (Cum. Supp.)], however, does require that:

[a]ny public official or public employee who, in the discharge of his official duties, would be required to take action or make a decision which in his opinion would substantially affect directly his personal financial interest or those of a member of his household, or a business with which he is associated, shall instead take the following actions:

(a) Prepare a written statement describing the matter requiring action or decisions, and the nature of his potential conflict of interest with respect to such action or decision;

(c) If he is not a legislator, he shall furnish a copy to his superior, if any, who shall assign the matter to another employee who does not have a potential conflict of interest. If he has no immediate superior, he shall take such steps as the State Ethics Commission shall prescribe through rules or regulations to remove himself from influence over actions and decisions on the matter on which the potential conflict exists.

If your son shares your residence with you, then he is included in the term 'member of his household' and, pursuant to the above-quoted provision, you should contact the State Ethics Commission as to the steps to be taken to remove yourself from influence over the decision of county employment for your son. If, however, your son does not share your household, then you would not be prohibited by the ethics legislation from hiring him. This opinion makes the assumption that the Marlboro County Council has not enacted an anti-nepotism ordinance prohibiting such a practice.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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