

1977 WL 37000 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 19, 1977

*1 Honorable Frank Powell
Office of the Sheriff
Post Office Box 143
Columbia, SC 29201

Dear Sheriff Powell:

You have requested advice as to whether an elected official can seek another elected office without the necessity of resigning or obtaining a leave of absence from the position that he or she presently holds. You have also inquired as to whether a deputy sheriff must resign or obtain a leave of absence should he or she desire to seek an elected office. Enclosed are two opinions which should answer these questions to your satisfaction.

The May 8, 1962, opinion states that the dual office holding prohibition of the Constitution is not violated by merely running for a particular office. If the candidate won, then the first office is vacated when he assumes the second office.

The March 4, 1976, opinion points out that there is no state law imposing any restrictions on the limits of an employee's political activities, if he campaigns on his own time. However, it goes on to point out that if the employee has duties which are concerned with the implementation of a program supported in full or in part by federal funds that he must resign his position before he files his notice of candidacy. For a definitive opinion on this question, I would suggest that you seek an opinion from the Federal Civil Service Office.

I hope this information is useful to you.

Sincerely yours,

Richard D. Bybee
Staff Attorney

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