

1979 WL 43461 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 12, 1979

\*1 Douglas F. Dent, Esquire  
Attorney at Law  
Bankers Trust Plaza  
7 N. Laurens Street  
Greenville, South Carolina 29602

Dear Doug:

You have asked the opinion of this Office on whether it would be a violation of the State constitutional provisions prohibiting dual office holding for the Executive Director of the Greenville County Redevelopment Authority [hereinafter referred to as the Authority] to hold a position on any other State, county or municipal board, commission, committee or authority.

[Article XVII, § 1A of the South Carolina Constitution](#) states that ‘. . . no person shall hold two offices of honor and profit at the same time.’ Also see Article VI, § 3. For this provision to be contravened, one person must hold at the same time two offices ‘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 not occasional or intermittent.’ [Sanders v. Belue](#), 78 S.C. 171, 174 (1907). Thus, the answer to your question depends on whether the position of Executive Director of the Authority is an office within the meaning of this provision.

The Authority and its powers and duties are provided for by Act No. 516 of the 1969 Acts and Joint Resolutions and [Article XIV, § 5 of the South Carolina Constitution](#). In these there is no reference to the position of Executive Director or the powers and duties conferred thereon. However, the position and its duties are defined in the by-laws of the Authority. See Act No. 516, Section 4(12), supra, and attachment. Basically, the Executive Director is responsible for and in charge of the day to day functions of the Authority and is the Secretary-Treasury of the Authority. A review of the provisions establishing the Authority and the by-laws defining the position and duties of the Executive Director lead to the conclusion that the Executive Director is not an office charged by law with duties but a position of employment. As was stated in [Sanders v. Belue](#), supra, ‘. . . one who merely performs the duties required of him by persons employing him under an express contract or otherwise, though such persons be themselves public officers, and though the employment be in or about a public work or business, is a mere employee.’ Ibid.

Based on the foregoing reasons, it is the opinion of this Office that the position of Executive Director of the Greenville County Redevelopment Authority is not an office subject to the prohibition of [Article XVII, § 1A](#).

Sincerely,

James M. Holly  
State Attorney

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