

1978 S.C. Op. Atty. Gen. 80 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-56, 1978 WL 22538

Office of the Attorney General

State of South Carolina

Opinion No. 78-56

March 22, 1978

*1 TO: Luke Hause

Director

Division of Shellfish & Recreational Waters

Bureau of Special Environmental Programs

S. C. Department of Health & Environmental Control

QUESTION PRESENTED:

Can a state employee who is not paid with federal funds and who does not work in programs supported in full or in part by federal funds retain his position as a state employee while a candidate for office in a partisan election?

STATUTES, ETC., CONSTRUED:

U. S. Code, Title 5, Sections 1501 to 1508; Section 18 of the South Carolina Department of Health and Environmental Control Manual of Administrative Policy, Procedure and Information.

DISCUSSION OF THE ISSUES:

You have asked whether or not a state employee, who is neither paid with federal funds nor employed in a program supported by federal funds, may run for the Office of Adjutant General and retain his position as a state employee.

Since the employee is neither paid with federal funds nor working in a program supported by federal funds, the provisions of the Hatch Act ([5 U.S.C. 1501–1508](#)), as amended by the Federal Campaign Act (PL 93–443), would not apply to his candidacy. (See 1975–1976 Attorney General's Opinion No. 4280, March 4, 1976). The question remaining is whether or not there are any restrictions imposed on such candidacy under state law or regulation.

The answer to this query is that there are no such restrictions. There appear to be no South Carolina statutes or regulations which would prohibit a state employee from being a candidate in a partisan political election. In Section 18(c) of its Manual of Administrative Policy, Procedure, and Information, the South Carolina Department of Health and Environmental Control specifies that a state or local employee subject to the Hatch Act may not be a candidate for office in a partisan election. However, no similar restrictions are placed upon employees not subject to the Hatch Act. It is therefore the opinion of this office that a DHEC employee not paid through federal funds or involved in federally-supported programs may run for office and retain his position as a state employee, so long as he does so on his own time.

CONCLUSION:

An employee of a state agency who is not paid with federal funds or concerned with the implementation of a program supported in full or in part by federal funds, may retain his position as a state employee while a candidate for office in a partisan election.

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