

1975 S.C. Op. Atty. Gen. 19 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 3938, 1975 WL 22236

Office of the Attorney General

State of South Carolina

Opinion No. 3938

January 17, 1975

**\*1 Re: Dual Office Holding—Town Councilman of Blythewood and Employee of Department of Social Services**

Dr. R. Archie Ellis  
Commissioner  
South Carolina Department  
of Social Services  
Post Office Box 1520  
Columbia, South Carolina 29202

Dear Dr. Ellis:

In reply to your letter of December 6, 1974, and after submission of additional facts, it is the opinion of this Office that the office of Town Councilman and the position of Planner in the planning unit of the Department of Social Services would not violate the dual office prohibition of the Constitution.

One which by law is given duties which involve an exercise of the State's sovereign power in the performance of which the public is concerned and which are continuing in nature is a public office. Constitution of the State of South Carolina, Art. XVII, Section 1A; [Ashmore v. Greater Greenville](#), 211 S.C. 77, 44 S.E. 2d 88 (1972); [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762 (1907); Section 40–1, Code of Laws of South Carolina (1962). It would seem to go without further comment that the position of Town Councilman of Blythewood would constitute a ‘public office’ within the meaning of the dual office holding prohibition. 1971–72 Op. Atty. Gen. No. 3309, p. 127. Such Town Council position is specifically provided for by statute. Code of Laws of South Carolina (1962), Section 47–111.

The ‘planning unit’ position of the Department of Social Services is not one which contains some of the important elements of the ‘exercise of the sovereign power of the State’, *viz.*, no statutory provision specifically creates the employment, no appropriation is made for it, there is no bond requirement, and no duties are specifically prescribed by statute for the employment position. 1960–61 Op. Atty. Gen. No. 1246, p. 340.

It is the opinion of this Office that the ‘planning unit’ position would not be one within the dual office holding prohibition, and the occupation of it and the town council position would not constitute dual office holding.

Very truly yours,

Raymond G. Halford  
Assistant Attorney General

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