

1975 S.C. Op. Atty. Gen. 69 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4000, 1975 WL 22298

Office of the Attorney General

State of South Carolina

Opinion No. 4000

March 19, 1975

*1 The Honorable Joseph J. Earle, Jr.
County Attorney
Greenville County
Messrs. Earle, Bozeman & Grayson
Attorneys at Law
Suite 400, The First Federal Building 301 College Street
Greenville, South Carolina 29601

Dear Joe:

Thank you for your letter of January 24, 1975, inquiring if the same person may occupy the positions of Executive Director of the Greenville County Human Relations Commission and at the same time serve as a member of the Greenville County Board of Social Services.

Membership upon the County Board of Social Services is, in my opinion, clearly an office within the meaning of the dual officeholding provision of the Constitution of South Carolina. Previous opinions of this Office cited below reflect this view, each being predicated upon the case of [Sanders v. Belue](#), 78 S.C. 171, 58 S.E. 762.

The Greenville County Human Relations Commission was established pursuant to Act No. 1832, approved March 5, 1972 (72 Acts 3637). Among powers given to the Commission by Section 4(b) thereof is 'to appoint an Executive Director and other necessary employees, subject to approval of County Council.' No specific duties are imposed by statute upon the Director, his term is not fixed, and, in my opinion, he is an employee, and not an officer, within the meaning of the constitutional provision referred to. In this connection, the following from [Sanders v. Belue](#), at page 174, is apposite: 'Conversely, 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.'

It is my opinion that only one office is involved in the two positions referred to in your letter, that is, membership upon the County Board of Social Services, and that the same person may therefore occupy both of such positions without violating the dual officeholding provisions of the Constitution.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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