

1975 WL 29011 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 15, 1975

*1 It is a violation of dual office holding restrictions for a person to hold the chairmanship of the Johns Island Fire District and be a member of the Charleston County Planning Board at the same time.

Ben Scott Whaley, Esquire
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QUESTION PRESENTED:

Is it a violation of constitutional dual office holding restrictions to serve as Fire District Chairman and member of County Planning Board at the same time?

CASES, STATUTES:

Code of Laws of South Carolina, 1962, Sections 59-601 et seq. and 14-355, as amended; South Carolina Constitution, Article XVII, Section 1A; [Sanders, et al. v. Belue, et al.](#), 78 S.C. 171, 58 S.E. 762; [Edge v. Town of Cayce](#), 187 S.C. 172, 197 S.E. 216; [Ashmore v. Greater Greenville Sewer District](#), 211 S.C. 77, 44 S.E.2d 88.

DISCUSSION OF ISSUE:

Article XVII, Section 1A of the South Carolina Constitution provides that no person shall hold two offices of honor or profit at the same time.

The Charleston County Planning Board was apparently created pursuant to South Carolina Code Section 14-351, et seq. The language of this Section clearly makes membership on the Planning Board a state office within the definition of the Sanders and Edge cases, supra. A board member clearly exercises some degree of sovereign power on a continuing basis. Similar planning bodies have previously been construed by this office to be state offices. See 1965-66 Ops. Att'y Gen., No. 2042, p. 120 and 1966-67 Ops. Att'y Gen., No. 2352, p. 189.

The Johns Island Fire District was apparently created pursuant to South Carolina Code Section 59-601, et seq., and again similar positions have been held by this office to be a state office. See 1971-72 Ops. Att'y Gen., No. 3309, p. 127 and No. 3292, p. 104. This holding is based on the fact that the position involves to some degree the exercise of sovereign authority to protect the health and welfare of the state, on a continuing basis.

Since in my opinion both positions are public offices, the Constitutional directives of Section XVII 1A, South Carolina Constitution would be violated if both offices are held by the same person at the same time.

CONCLUSION:

The same individual cannot hold a position as the chairman of the Johns Island Fire District and as a member of the Charleston County Planning Commission at the same time without violating Article XVII Section 1A of the South Carolina Constitution.

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Staff Attorney

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