

1975 S.C. Op. Atty. Gen. 125 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4048, 1975 WL 22345

Office of the Attorney General

State of South Carolina

Opinion No. 4048

July 9, 1975

***1** An individual employed as Director of Special Services for Educational Television is a state employee and not a state officer subject to dual office-holding prohibitions if elected to serve on West Columbia City Council. The individual may run for the office and retain public employment, provided the employing agency has no contrary restrictions. Financial remuneration for the elective office has no effect on the questions presented.

TO: G. W. Hopkins, Jr.

Director

Education Television Division of Special Services

Questions Presented:

Can a state employee enter a campaign for West Columbia City Council and serve if elected, all while maintaining state employment? Does financial remuneration from the elected office alter the eligibility of a state employee to run for and hold this public office?

Statutes, Cases cited:

Code of Laws of South Carolina, 1962, as amended, Section 47-374.4; South Carolina Constitution, Article XVII, Section 1 A; [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.

Discussion of Issues:

The general opinion expressed by this office has been that since there is no South Carolina statute which would prohibit a candidate from maintaining his state employment during the course of his candidacy, he may run for office and maintain employment unless there is a rule or regulation of the employing agency prohibiting such activity. The fact that some financial remuneration would be forthcoming if the candidate were elected would not alter his ability to run for office.

Another issue entirely is presented by the question concerning holding both state employment and the political office of West Columbia City Councilman. Article XVII, Section 1 A of the South Carolina Constitution provides that no person shall hold two offices of honor or profit at the same time. The position of West Columbia City Councilman is clearly a public office within the criteria set out in the [Sanders](#) and [Edge](#) cases, [supra](#). Those criteria are as follows:

One who is 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 is a public officer.

The position of Educational Television Director of Special Services is not a position as head of the agency, is apparently a hired employment rather than a legislative or executive appointment, and does not involve the direct exercise of the sovereign power of the state. Therefore, it is my opinion such employment does not constitute a public office within the

proscription of South Carolina Constitution Article XVII, 1 A, and a person engaged in such employment could serve on the West Columbia City Council.

The West Columbia City Council is elected pursuant to South Carolina Code Section 47-374.4, as amended, and this Section does not prohibit state employees from serving on the council.

***2** The matter of financial remuneration is also inapplicable in determining a state employee's ability to serve on the city council.

Conclusion:

A state employee may run for West Columbia City Council while employed by the state, provided the employing agency has no contradictory regulations. The position of Director of Special Services of E.T.V. is not a public office within the proscription of Article XVII, Section 1 A. The potential for financial remuneration has no bearing on the answer to either question.

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