

1975 S.C. Op. Atty. Gen. 185 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4109, 1975 WL 22405

Office of the Attorney General

State of South Carolina

Opinion No. 4109

September 5, 1975

***1** Absent individual agency restrictions, an individual may be employed as a permanent state employee and at the same time be employed by a county.

TO: Senator Thomas F. Hartnett

QUESTION PRESENTED:

Can the same individual be employed by the State of South Carolina and the County of Charleston at the same time.

STATUTES, CASES, ETC.:

State of South Carolina General Appropriations Act for 1975–76, Act No. 237, Section 100 and 101; Code of Laws of South Carolina, 1962, as amended, Sections 4–29.21 et seq.

DISCUSSION OF ISSUES:

Section 100 of the 1975–76 Appropriations Act provides in part:

Provided, Further, That no employee of any state department or institution shall be paid any compensation from any other department of the state government except with the approval of the State Budget and Control Board, and no employee of any department or institution shall be paid travel expenses by any other department to institution without approval of the agency by which he is regularly employed.

Section 101 provides in part:

Provided, Further, That salary appropriations for Employees fixed in this Act shall be in full for all services rendered, and no supplements from other sources shall be permitted or approved by the State Budget and Control Board.

Section 100 indicates a state employee can be paid only by one state agency without approval of the Budget and Control Board. Section 101 requires that a state employee shall receive the salary allowed by the Act and no supplements from other sources shall be permitted.

However, the above restrictions apply to state employment and state salary payments. Where an individual has a second job with a county or a private entity the restrictions are inapplicable, as long as each job and salary are separate. Code Section 4–29.22 indicates that the substance abuse commissions are county agencies. Currently there are no regulations set out by the State Personnel Division directly controlling outside employment with a county or private employer. However, such guidelines are now being considered.

A further question has been raised due to the fact that the state employee in question holds a county job funded at least in part by state revenue. Code of Laws of South Carolina, 1962, as amended, Section 4–29.21, et seq., provides for payment

to the counties of certain tax revenues to be used in furtherance of the county alcohol and drug abuse program. These funds are only intended to supplement and not supplant all other available federal, state and local funds.

The funds received by the Substance Abuse Commission from the state are comingled with federal, local and other state revenues, and become county funds. The salary received by the director of the Substance Abuse Commission is paid from this general total revenue source.

It should be noted that the individual in question is employed as a permanent state employee, but paid only on a half-time basis. The county employment is held as a permanent position and paid on a full-time basis. Both employers were apparently aware of the dual employment and were agreeable thereto before the positions were accepted.

CONCLUSION:

***2** Absent a prohibition by one or both employing entities, or a state law, an individual can be a permanent state employee and at the same time be employed by a county.

George C. Beighley
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