

1974 S.C. Op. Atty. Gen. 316 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3885, 1974 WL 21383

Office of the Attorney General

State of South Carolina

Opinion No. 3885

November 12, 1974

*1 Mr. Henry Busbee
Attorney at Law
Palmetto Federal Building
Aiken, South Carolina 29801

Dear Henry:

Thank you for your letter of November 7, 1974, inquiring if the same individual may serve as a member of an Advisory Board of the School District of Aiken County and at the same time hold office as a member of the County Board of Commissioners of Aiken County.

Each of these position, in my opinion, is clearly an office within the meaning of the dual officeholding provision of the State Constitution. Section 21-1046 of the Code of Laws, 1962, as amended, sets forth the duties of the Area Advisory Councils, which I presume are the Area Advisory Boards referred to in your letter. Among these are the authority to 'determine local policies in their respective administrative areas' and to perform such other additional authority as may be delegated to the Area Advisory Councils by the County Board of Education 'to the extent necessary for the effective operation of the public schools in the County. Undoubtedly, these duties constitute an exercise of a portion of the sovereignty.

The position of a member of the County Board of Commissioners is undoubtedly an office also.

The Constitution prohibits the same person from holding these two offices at the same time. The acceptance and qualification of the last office works an automatic vacancy in the position previously held and if the individual in question should assume office as a member of the Board of Commissioners, the vacancy in the office previously held by him should then be filled in the manner provided by law.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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