

1973 S.C. Op. Atty. Gen. 12 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3442, 1973 WL 20907

Office of the Attorney General

State of South Carolina

Opinion No. 3442

January 5, 1973

***1 Re: Hampton County Treasurer**

George Warren, Jr., Esquire
County Attorney for Hampton County
301 East 1st Street
Hampton, South Carolina

Dear Mr. Warren:

Pursuant to my letter of November 20, 1972, to the Hampton County Council expressing the opinion that the Hampton County Council has authority to assign to the County Treasurer those duties formally attendant to office of County Tax Collector, you have inquired as to whether or not this transfer of duties might violate the dual office holding prohibition of the South Carolina Constitution. See S. C. Const. art. 17, § 1A (1971). Having discussed this matter with Mr. McLeod, it is the opinion of this office that the County Treasurer would be acting in an ex officio capacity regarding the tax collector's duties, and that such ex officio activities constitute an exception to the dual office holding prohibition. See Ashmore v. Greater Greenville Sewer District, 211 S. C. 77, 44 S.E.2d 88 (1947).

You have inquired whether or not there exists an inherent conflict of interests in the assumption by the County Treasurer of the County Tax Collector's duties, arising out of the provision of Section 65-2128, South Carolina Code of Laws (1962). I think that there is not an inherent conflict, due to the fact that this tax collection statute prescribes ministerial duties and does not contemplate that the tax collector should act as a reviewing authority regarding the issuance of tax warrants by the Treasurer. Laws regulating judicial sales should protect the public, and, of course, any breach of trust in public office by a public officer is subject to prosecution,

If further questions arise out of this matter, please let me know.

Sincerely,

John B. Orimball
Assistant Attorney General

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