

SUBJECT: DEPUTY SHERIFF SEEKING ELECTION TO COUNTY COUNCIL

SUMMARY:

A Deputy Sheriff would not be prohibited from remaining in his position while campaigning for a position on County Council, however, he would be required to follow the provisions of Sections 8-13-765(A), 8-13-1338, and 8-13-1346. He is advised to contact the Attorney General's Office concerning dual office holding.

QUESTION:

The Sheriff of Newberry County has requested an opinion concerning a Deputy Sheriff who wants to run for County Council. He states:

- (1) Based on his job, does that employee have to resign his position in order to run for this office?
- (2) If this employee does not have to resign, should he take a non-paid leave of absence or not campaign on County time, using County equipment?
- (3) If that employee were to be elected to a County Council Office, could he still be employed at this office in the capacity of Deputy Sheriff?

DISCUSSION:

This opinion is rendered in response to a letter dated December 11, 1991 requesting an opinion from the State Ethics Commission.

The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

The State Ethics Commission knows of no reason why a Deputy Sheriff could not continue to serve in his present position while he campaigns for the County Council.

In Advisory Opinion AO92-012, the State Ethics Commission advised:

The State Ethics Commission knows of no reason why a Deputy Sheriff could not continue to serve in his present position while he campaigns for the office of Clerk of Court for Aiken County. He is advised of the following provisions of the State Ethics Act. Section 8-13-765(A) provides:

No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.

Section 8-13-1338 provides:

The following persons personally may not solicit, verbally or in writing, a contribution to a candidate:

- (1) a law enforcement officer while in uniform;
- (2) a judge or candidate for judicial office;
- (3) a solicitor, an assistant solicitor, or an investigator in a solicitor's office;
- (4) the Attorney General, a deputy attorney general, an assistant attorney general, or an investigator in the Attorney General's office.

(B) The restrictions of subsection (A) on solicitation of contributions do not apply to:

- (1) a candidate soliciting a contribution to his own campaign; or
- (2) a part-time assistant solicitor.

(C) A law enforcement officer while in uniform may not solicit a contribution to any political party or candidate.

Section 8-13-1346 provides:

A person may not use or authorize the use of public funds, property, or time to influence the outcome of an election. This section does not prohibit the incidental use of time and materials for preparation of a newsletter reporting activities of the body of which a public official is a member.

As to the second question, the Ethics Reform Act does not require a public employee to be placed on non-paid leave while campaigning for elective office. The Act requires that such

campaigning be done on the employee's own time without utilization of public materials and equipment except as provided by the above quoted sections.

With regard to the third question, the State Ethics Commission advises that the Attorney General's Office should be contacted concerning the applicability of the dual-office holding provisions of the State Constitution.