

The State of South Carolina



Office of the Attorney General

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October 7, 1987

The Honorable James W. Johnson, Jr.
Member, House of Representatives
Post Office Box 724
Clinton, South Carolina 29325

Dear Representative Johnson:

By your letter of September 15, 1987, you have advised that Laurens County Council has restructured its long-range planning commission to conform to Act No. 487 of 1967, codified as Section 6-7-310 et seq. of the Code of Laws of South Carolina (1976), by Laurens County Ordinance Number 252. In light of this change, you have asked whether the opinion of September 4, 1987, concluding that a member of the long-range planning commission would not be an officer, would still be applicable. We must advise that a different conclusion is necessary.

In concluding that a member of the long-range planning commission would not be an officer, the September 4, 1987 opinion referenced that the member's position was not created by statute or ordinance and no duties were specified by statute or ordinance. Membership on the commission was at the will of the Laurens County Council. However, Laurens County Ordinance Number 252 provides for a seven-member Laurens County Planning Commission appointed by the Laurens County Council for specified terms of office. Also, the Ordinance specifically sets forth the duties and functions of the Commission.

This Office has previously advised that one who serves on a county planning commission created by a county pursuant to Section 6-7-310 et seq. of the Code would be an officer for dual office holding purposes. Enclosed are Ops. Atty. Gen dated January 31, 1984 and February 15, 1984, so concluding. An examination of Ordinance Number 252 and the Code sections related thereto compels the conclusion that one who would serve on the Laurens County Planning Commission would hold an office for dual office holding purposes.

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Based on the foregoing, the opinion of September 4, 1987, must be modified to the extent inconsistent with today's opinion. It must now be concluded that service on a local school board and on the Laurens County Planning Commission would both be considered to be office-holding; the conclusion as to the South Carolina Migratory Waterfowl Committee remains unchanged. Thus, if a school board trustee were to accept either of the other two offices, a dual office holding problem would most likely occur.

We trust that the foregoing has sufficiently clarified the previous opinion. If we may be of further assistance to you, please let us know.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

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