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The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

March 23, 2004

Agnes M. Garvin, Executive Director  
Beaufort County Board of Elections and Registration  
104 Ribaut Road  
Beaufort, South Carolina 29901-1228

Dear Ms. Garvin:

In a letter to this office the question was raised as to whether an individual, presently a member of the Beaufort County Board of Elections and Registration, may serve on the Bluffton Public Safety Commission without violating the dual office holding provisions of the State Constitution

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time..." with exceptions specified for an officer in the militia, a member of a lawfully and regularly organized fire department, a constable, and a notary public. For this provision to be contravened, a person concurrently must hold two offices which have duties involving an exercise of some portion of the sovereign power of the State. Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its duties or salary, or require qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980).

This office has determined in prior opinions that members of the Beaufort County Board of Elections and Registration would be considered office holders for dual office holding purposes. See Ops. Atty. Gen. dated July 9, 1998 and July 23, 1996. As to a member of the Bluffton Public Safety Commission, I have been advised that such board is a strictly advisory board that reports to the Bluffton Town Council. I have also been advised that the Commission is not established by ordinance, members do not serve a term of office nor do they take an oath of office when assuming their duties. The members of the Commission receive no compensation for their services and only make recommendations to the Town Council. Consistent with such understanding, it is my opinion that a member of the Bluffton Public Safety Commission would not hold an office for dual office holding

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purposes. Therefore, an individual may serve both on the Beaufort County Board of Elections and Registration and the Bluffton Public Safety Commission.

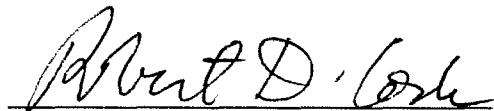
If there is anything further, please advise.

Sincerely,



Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General