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HENRY McMASTER
ATTORNEY GENERAL

May 17, 2006

The Honorable Kent M. Williams
Senator, District No. 30
Post Office Box 1514
Marion, South Carolina 29571

Dear Senator Williams:

In a letter to this office you questioned whether an individual may both serve on the Marion County Voter Registration/Election Commission and as an assistant solicitor for Horry County. You have questioned whether the simultaneous serving in both capacities constitutes dual office holding.

Article XVII, Section 1A of the South Carolina 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, or 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 in prior opinions has determined that one who would serve on an election commission or voter registration board is considered an office holder for dual office holding purposes. See, Ops. Atty. Gen. dated December 15, 2004; February 23, 1995; September 12, 1990; July 24, 1980. As to the position of assistant solicitor, this office has determined that the position of assistant solicitor would also be considered an office for dual office holding purposes. See: Ops. Atty. Gen. dated February 8, 2005; May 30, 1997; March 27, 1995; October 19, 1990.

Consistent with the above, an individual simultaneously serving as a member of the Marion County Voter Registration/Election Commission and as an assistant solicitor for Horry County would most probably hold dual offices in conflict with the referenced provisions of the State Constitution.

Request Letter

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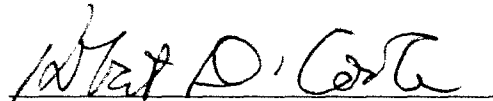
If there are any questions, please advise.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General