



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

October 15, 2003

Patrolman Christopher S. Lyle  
Clemson University Police Department  
108 Dewey Street  
Westminister, South Carolina 29693

Dear Patrolman Lyle:

You have requested an advisory opinion from this Office concerning dual office holding. As a patrolman for the Clemson University Police Department, you have inquired as to whether you may serve simultaneously as a city councilman for the City of Westminister without violating the constitutional prohibition on dual office holding. You have provided a prior opinion of this Office dated February 26, 2001, in which we concluded that a patrolman for the Clemson University Police Department would fall under the exception for constables in the dual office holding provision of the South Carolina Constitution, Article XVII, Section 1A.

**Law/Analysis**

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, member of a lawfully and regularly organized fire department, constable, or 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 advised on numerous occasions that a member of a city or town council would be considered an officer for dual office holding purposes. See, as representative of those numerous opinions, Ops. S.C. Atty. Gen. dated April 12, 1998; June 12, 1995; Feb. 4, 1994; July 23, 1993; July 24, 1991.

Regarding your position as a Patrolman for the Clemson University Police Department, we now re-affirm the conclusion reached in our February 26, 2001 opinion. You state that your law enforcement authority is derived solely from a State constable commission signed and issued by the Governor and the Chief of SLED. State law provides that campus security departments are staffed

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by constables commissioned pursuant to Section 23-1-60 of the South Carolina Code of Laws. See S.C. Code Ann. § 59-116-20. Therefore, since your law enforcement powers are derived solely from the constable commission, the position must be analyzed for dual office holding purposes in the same manner as any other constable position. As such, the position would fall under the exception provided for constables found in the Constitution. See also Ops. S.C. Atty. Gen. dated January 25, 1999; June 3, 1998.

Based on the foregoing, due to the exception found in the Constitution for constables, it would appear that the dual office holding prohibitions would not be violated if you were to serve as a Clemson University Patrolman and a councilman for the City of Westminster. However, I would recommend that you contact SLED to determine whether that agency possesses any rules and regulations on this subject.

Very truly yours,



Robert D. Cook  
Assistant Deputy Attorney General