

7073 Liberty



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON
ATTORNEY GENERAL

January 22, 2001

Andy Blackwell
Chief of Police, Irmo Police Department
1239 Columbia Avenue
P.O. Box 406
Irmo, South Carolina 29063

Dear Chief Blackwell:

By your letter of January 16, 2001, you have requested an opinion of this Office concerning whether serving simultaneously as the mayor pro tempore and as a deputy coroner would violate any provisions of South Carolina law.

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 public 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).

The mayor pro tempore is chosen from among the members of the municipal council to act as mayor temporarily. This Office has previously advised that one serving as the mayor pro tempore would hold an office for purposes of Article XVII, Section 1A of the Constitution. See Op. Atty. Gen. Sept. 3, 1982 (copy enclosed). We have also said on numerous occasions that members of a municipal council are also office holders. See Ops. Atty. Gen. Sept. 20, 1999; Apr. 2, 1998. Similarly, this Office has also concluded that a deputy coroner would be an officer, as well. See Ops. Atty. Gen. June 28, 1995; Oct. 13, 1992; Nov. 3, 1983 (copies enclosed). Although unpaid, the position of the deputy coroner is authorized by state statute and an oath of Office is taken.

Based on these prior opinions, which continue to remain the position of this Office, we would

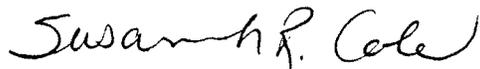
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Constitution's prohibition against dual office holding.

I trust this information is responsive to your inquiry and that you will not hesitate to contact me if I can be of additional assistance. This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,



Susannah R. Cole
Assistant Attorney General