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The State of South Carolina



Office of the Attorney General

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ATTORNEY GENERAL

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October 16, 1987

Timothy E. Meacham, Esquire
City Attorney, City of Florence
Drawer AA, City-County Complex
Florence, South Carolina 29501-3456

Dear Mr. Meacham:

By your letter and memorandum of September 28, 1987, you have asked whether an individual may serve simultaneously as a member of the City of Florence Housing Authority and also the South Carolina Aeronautics Commission. You have concluded that simultaneously serving in both capacities would fall within the dual office holding prohibitions of the State Constitution; we concur with your conclusion.

Article XVII, § 1A of the South Carolina Constitution provides that "... no person shall hold two offices of honor or profit at the same time." 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 tenure, 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 advised, by an opinion dated August 19, 1975 (copy enclosed), that one who would serve on the South Carolina Aeronautics Commission would hold an office within the purview of Article XVII, § 1A of the Constitution.

Similarly, this Office has advised on several occasions that one who serves on the governing body of a municipal housing authority established pursuant to Section 31-3-310 et seq. of the Code of Laws of South Carolina (1976) would be a public officer. Op. Atty. Gen. dated August 1, 1985. Additionally, memberships on the Kingstree Public Housing Authority and the Housing Authority of Hartsville have been deemed to be offices

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for dual office holding purposes by Ops. Atty. Gen. dated March 7, 1979 and September 25, 1980, respectively (copies enclosed). Because you have indicated that the City of Florence Housing Authority was established pursuant to Section 31-3-310 et seq. of the Code, we see no reason to treat that entity differently from the housing authorities examined in other opinions of this Office. Therefore, we must conclude that service on the City of Florence Housing Authority would constitute an office for dual office holding purposes.

Based on the foregoing, this Office concludes and concurs with your conclusion that both positions would constitute offices for dual office holding purposes. Therefore, one who would hold both positions simultaneously would most probably contravene the dual office holding prohibitions of the State Constitution.

With kindest regards, I am

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP/rhm

Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions