

1983 WL 181709 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 13, 1983

*1 Thomas W. Cooper, Jr., Esquire

Coffey, Cooper & Chandler
Post Office Box 277
Manning, South Carolina 29102

Dear Mr. Cooper:

You have requested the opinion of this Office on the question of whether a person can serve concurrently on the Board of Directors of the South Carolina Public Service Authority and on the Clarendon Hospital District Board of Trustees without violating the provisions of the South Carolina Constitution prohibiting dual office holding.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) 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 \(1907\)](#). 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, 266 S.E.2d 61 \(1980\)](#).

The South Carolina Public Service Authority is created pursuant to [§§ 58-31-10 et seq., Code of Laws of South Carolina, 1976](#), as amended, and its Board of Directors is established by § 58-31-20 thereof. In performing its duty as defined in [§ 58-31-20 of the Code of Laws of South Carolina, 1976](#), as amended, the Authority performs an important governmental function. [Rice Hope Plantation v. South Carolina Public Service Authority, 216 S.C. 500, 59 S.E.2d 132 \(1950\)](#). In exercising these functions, the Authority is given specific powers such as that of eminent domain and to issue bonds that are traditionally viewed as involving an exercise of the State's sovereign power. There is little doubt, therefore, that members of the board of directors of the South Carolina Public Service Authority hold offices within the meaning of the dual office holding provisions of the Constitution.

The Clarendon Memorial Hospital Board was created by Act 375 of the 1947 Statutes at Large to govern the Clarendon Hospital District. The powers and duties of the Board are set forth in [§§ 3 et seq., of the Act](#), and include the power to build and operate a hospital for the benefit of the public, to promulgate regulations for the governing of the hospital, to exercise eminent domain, and to issue bonds and hold elections relating thereto. These functions clearly involve an exercise of the sovereign power of the State, and therefore, the members of the Board of Trustees of the Clarendon Hospital District would be officers for dual office holding purposes.

Based on the foregoing, it is the opinion of this Office that a person serving concurrently on the Board of Directors of the South Carolina Public Service Authority and the Clarendon Hospital District Board of Trustees would be in violation of the dual office holding provisions of the South Carolina Constitution.

Very truly yours,

*2 Helen T. Zeigler
Assistant Attorney General

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