

1984 WL 250024 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 18, 1984

*1 The Honorable Ike G. Long, Jr.
Mayor
City of Conway
Post Office Box 1075
Conway, South Carolina 29526

Dear Mayor Long:

By your letter of December 10, 1984, you have asked for the opinion of this Office as to whether an individual serving simultaneously on the City of Conway Housing Authority Board and on the Grand Strand Water and Sewer Authority's Board of Directors would be a violation of the dual office holding provisions of the Constitution of the State of South Carolina.

[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 \(1980\)](#).

The Housing Authority of the City of Conway was created pursuant to [Section 31-3-310 et seq., Code of Laws of South Carolina \(1976\)](#). Commissioners are appointed by the Mayor and serve for five-year terms; they do not receive compensation for their service. An examination of powers and duties contained in [Section 31-3-440 et seq.](#) shows that the Commissioners exercise a portion of the sovereign power of the State, including eminent portion of the sovereign power examinations, issuing of subpoenas to compel attendance of witnesses, and other powers. By [Ops. Atty. Gen.](#) dated September 25, 1980 and March 7, 1979 (copies enclosed), this Office determined that members of the Boards of Directors of the Housing Authorities of Hartsville and Kingstree respectively, held offices for dual office holding purposes. Likewise, an individual serving as a Commissioner of the City of Conway Housing Authority would also be deemed to hold an office.

The Grand Strand Water and Sewer Authority was created by Act No. 337, 1971 Acts and Joint Resolutions, as amended by Act No. 771 of 1978 and other acts. Members of the governing board are appointed by the Governor upon the recommendation of a majority of the legislative delegation, and they serve six-year terms. The members of the board receive no compensation but are reimbursed for actual expenses incurred during their service. The powers of the Authority include eminent domain, borrowing money, issuance of bonds, and other powers and duties involving the exercise of a portion of the sovereign power of the State. One who would serve on the governing body of the Grand Strand Water and Sewer Authority would thus hold an office for dual office holding purposes. This conclusion is in accordance with [Ops. Atty. Gen.](#) dated June 26, 1980; April 28, 1982; and August 4, 1982, concluding that members of the governing boards of water and sewer authorities hold offices for dual office holding purposes.

*2 In conclusion, this Office would advise that an individual who would serve simultaneously on the governing boards of the Housing Authority of the City of Conway and the Grand Strand Water and Sewer Authority would most probably contravene the dual office holding provisions of the State Constitution.

Sincerely,

Patricia D. Petway

Assistant Attorney General

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