

1982 WL 189441 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 24, 1982

\*1 The Honorable D. M. McEachin, Jr.

Member

House of Representatives

District No. 63-Florence County

Drawer 150

Florence, South Carolina 29503

Dear Representative McEachin:

You have requested the opinion of this Office on the question of whether the dual office holding provisions of the South Carolina Constitution prohibit a person from serving concurrently on the Florence County Election Commission and the South Carolina Commission on Aging.

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 \(1980\)](#).

As the enclosed opinions indicate, this Office has previously determined that members of election commissions hold offices within the meaning of the dual office holding provisions of the Constitution. This conclusion appears to be based upon the fact that they are given the broad power pursuant to [§ 7-13-70 of the Code of Laws of South Carolina, 1976](#), to carry on general and special elections, are appointed to their positions by the Governor and are required to take an oath before assuming their duties.

Positions on the South Carolina Commission on Aging have also been found to be offices for dual office holding purposes as the enclosed opinions reveal. Those opinions note that the Commission on Aging is established by statutes which provide for the appointment of members by the Governor and prescribe the terms of office and the powers and duties of the Commission. Among those duties are the acceptance and disbursement of funds, the execution of a program to meet the needs of aging citizens, and the receipt on behalf of, and in the name of, the State grants from government sources and gifts, bequests, grants, funds and property from any other source. [See, §§ 43-21-10 et seq., Code of Laws of South Carolina, 1976](#).

Based on the foregoing, it is the opinion of this Office that a person serving concurrently on the Florence County Election Commission and the South Carolina Commission on Aging would be in violation of the dual office holding provisions of the South Carolina Constitution.

Very truly yours,

Helen T. Zeigler

Assistant Attorney General

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