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Office of the Attorney General

State of South Carolina

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\*1 Membership on the Georgetown County Commission for Higher Education and membership on the Georgetown County Zoning Board of Appeals both constitute offices subject to constitutional restrictions on dual office holding.

William B. Doar, Jr.  
Senator of Williamsburg,  
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Counties

QUESTION PRESENTED:

Can the same individual serve simultaneously as a member of the Georgetown County Commission for Higher Education and the Georgetown County Zoning Board of Appeals?

STATUTES, CASES, ETC:

South Carolina Constitution, Article VI, Section 3 and Article XVII, Section 1A;

Code of Laws of South Carolina, 1962, as amended, Sections 21-2794 and 14-368, et seq.;

[Sanders, et al. v. Belue, et al.](#), 78 S. C. 171, 58 S. E. 762.

DISCUSSION OF ISSUES:

Article VI, Section 3 and Article XVII, Section 1A of the South Carolina Constitution provide that no person shall hold two offices of honor or profit at the same time. An office has been defined by the South Carolina Supreme Court in [Sanders, et al. v. Belue, et al.](#), supra, as follows:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great in the performance of which the public is concerned, and which are continuing and not occasional or intermittent, is a public officer.

This office has previously expressed the opinion that membership on a county higher education commission constitutes an office under the [Sanders](#) definition. Code Section 21-2794, appearing at 1967 S. C. ACTS 137 and 1971 S. C. ACTS 755, gives to the Higher Education Commission the duty to establish higher education facilities in Georgetown County, to enter contractual relationships, to solicit funds and accept donations and to acquire title to real and personal property. The statute also fixes the terms of office for members. Such a grant of a part of the state's sovereignty, exercised on a continuing basis, meets the [Sanders](#) definition of an office.

The Georgetown County Zoning Board of Appeals was apparently created pursuant to S. C. Code Section 14-368, which requires the county governing body to set up such a board, fix the terms of office and determine the manner of appointment. Code Section 14-375 gives this Board specific duties, including hearing appeals on zoning decisions in the county. In my opinion

this statutory creation of duties, involving the exercise of state sovereignty in the area of interpreting and applying zoning and land use planning regulations on a continuing basis, creates an office under the Sanders definition.

CONCLUSION:

Membership on the Georgetown County Commission for Higher Education and membership on the Georgetown County Zoning Board of Appeals both constitute offices subject to constitutional restrictions on dual office holding.

See also 1964 Atty. Gen. Ops. 39 and 99.

George C. Beighley

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