

1976 S.C. Op. Atty. Gen. 124 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4307, 1976 WL 22927

Office of the Attorney General

State of South Carolina

Opinion No. 4307

March 23, 1976

\*1 The Honorable Toney J. Lister  
Member  
House of Representatives  
Spartanburg County  
Box 6291  
Spartanburg, South Carolina 29301

Dear Mr. Lister:

Your letter of March 16, 1976, requests the opinion of this Office as to whether or not you may serve as a member of the North Spartanburg Area Fire District Board of Fire Control and at the same time serve as a Member of the House of Representatives.

In my opinion, membership on the Board of Fire Control constitutes an office within the meaning of the dual officeholding provision of the Constitution. The Fire District was created by an Act approved April 20, 1964. The members serve without compensation and among its duties are the following: to purchase and maintain fire fighting equipment for the district; to construct necessary buildings; to borrow funds in anticipation of taxes; to pledge the full faith, credit and taxing power of the district for the payment thereof; and to establish a rate of taxation not to exceed four mills upon all taxable property of the district for the purpose of defraying the expenses incurred by the Board, which tax the auditor and treasurer are required to levy and collect.

In my opinion, these functions involve the exercise of some portion of the sovereign power, and in other respects the characteristics of an office are generally met by the Act creating the district.

I therefore advise that, in my opinion, membership upon the Board of Fire Control is an office and that you would be in conflict with the dual officeholding provision of the Constitution while serving as a Member of the House of Representatives at the same time.

With best wishes,  
Very truly yours,

Daniel R. McLeod  
Attorney General

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