



ALAN WILSON
ATTORNEY GENERAL

January 6, 2026

Kevin Bronson, Chair
Oconee Joint Regional Sewer Authority
623 Return Church Road
Seneca, SC 29678

Dear Chairman Bronson:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You ask whether an individual can simultaneously serve as the Executive Director of the Oconee Joint Regional Sewer Authority (OJRSA) and a member of the Planning Commission for the City of Clemson. You advise that the Commissioners of the OJRSA believe that a person may permissibly hold both positions at the same time because the position of Executive Director of the OJRSA does not constitute an office for dual office holding purposes. Specifically, you note the Executive Director does not swear an oath of office and serves at the pleasure of the OJRSA's governing body by contract. As discussed below, it is the opinion of this office that a person would not violate the South Carolina Constitution's prohibition against dual office holding by simultaneously serving as both the Executive Director of the OJRSA and a member of the City of Clemson's Planning Commission.

Law/Analysis

Article VI, Section 3 of the South Carolina Constitution prohibits any person from simultaneously holding "two offices of honor or profit." The limitation does not apply to notaries, militia officers, constables, constitutional delegates, or members of lawfully and regularly organized fire departments. S.C. Const. art. VI, § 3. "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." Sanders v. Belue, 78 S.C. 171, 174, 58 S.E. 762, 763 (1907). A position is considered an office for purposes of dual office holding when "the power of appointment comes from the state, the authority is derived from the law, and the duties are exercised for the benefit of the public." Segars-Andrews v. Jud. Merit Selection Comm'n, 387 S.C. 109, 124, 691 S.E. 2d 453, 461 (2010) (quoting Willis v. Aiken County, 203 S.C. 96, 103, 26 S.E.2d 313, 316 (1943)). When determining whether a position is an office under our constitution, relevant considerations

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include “whether the position was created by the legislature; whether the qualifications for appointment are established; whether the duties, tenure, salary, bond and oath are prescribed or required; [and] whether the one occupying the position is a representative of the sovereign; among others.” State v. Crenshaw, 274 S.C. 475, 478, 266 S.E.2d 61, 62 (1980). No single characteristic is conclusive, and it is not necessary that all criteria be met. Id.

This office has repeatedly determined that members of local planning commissions are office holders. Ops. S.C. Att'y Gen., 2021 WL 1832299 (February 22, 2021) (unspecified town planning commission); 2011 WL 3346433 (July 19, 2011) (Marion County Planning Commission); 2003 WL 21790892 (July 28, 2003) (Town of Hollywood Planning and Zoning Commission); 1995 WL 803333 (March 14, 1995) (City of Isle of Palms Planning Commission); 1990 WL 599249 (April 5, 1990) (Florence County Planning Commission).

Executive directors, on the other hand, are typically viewed as employees. We have repeatedly concluded that the executive director of a board or commission does not hold an office. Ops. S.C. Att'y Gen., 2024 WL 3526737 (July 16, 2024) (Chester Metropolitan District); 2005 WL 2250213 (August 29, 2005) (Lowcountry Regional Council of Governments); 1994 WL 378006 (June 24, 1994) (S.C. Real Estate Commission). A director or executive director holds an administrative position, not an office. Op. S.C. Att'y Gen., 2011 WL 1444716 (March 31, 2011). A director generally serves at the pleasure of the governing board or commission and is considered an employee. Id. The OJRSA was created pursuant to the Joint Authority Water and Sewer Systems Act contained in Title 6, Chapter 25 of the South Carolina Code. The Act contains no reference to a director or executive director. Because the legislature did not create the position, the individual holding the position is not required to take an oath, and the individual serves at the pleasure of the OJRSA Board of Commissioners, it is the opinion of this office, consistent with our prior opinions, that the Executive Director of the OJRSA does not hold an office. Because Executive Director does not hold an office, there is no dual office holding violation created by the Executive Director also holding an office, such as serving as a Commissioner on the City of Clemson’s Planning Commission.

Conclusion

It is the opinion of this office that the Executive Director of the OJRSA does not hold an office and thus the person holding that position may simultaneously hold an office without violating the dual office holding prohibition contained in the South Carolina Constitution.

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Sincerely,

Sabrina C. Todd
Sabrina C. Todd
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Robert D. Cook
Solicitor General Emeritus