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# The State of South Carolina



## Office of the Attorney General

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October 31, 1994

The Honorable James S. Klauber  
Member, House of Representatives  
406 E. Henrietta Avenue  
Greenwood, South Carolina 29649

Dear Representative Klauber:

By your letter of October 20, 1994, to Attorney General Medlock, you have sought an opinion as to how magistrates are compensated. You advise that some counties allow a full-time position to be split into two part-time positions. You then ask whether a full-time magistrate could also carry a part-time position and whether the dual office holding prohibitions of the State Constitution would have any effect in the matter.

I am enclosing a copy of Chapter 8 of Title 22, South Carolina Code of Laws, as to compensation of magistrates. I would first refer you to § 22-8-40(A), which states:

The county governing body of each county shall designate magistrates serving within the county as either full time or part time. A county is not required to have a full-time magistrate and may have only part-time magistrates.

By § 22-8-10(2), a full-time magistrate is one "who regularly works forty hours a week performing official duties required of a magistrate as a judicial officer." By § 22-8-10(3), a part-time magistrate is one who "regularly works less than forty hours a week performing official duties required of a magistrate as a judicial officer." Judicial functions are described in § 22-8-20. I see no authorization or provision within Chapter 8 of Title 22 which would allow a magistrate to be designated as anything other than full-time or

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part-time. (See also § 22-8-20 which in the last sentence refers to classifying or reclassifying magistrates as full-time or part-time.)<sup>1</sup>

I observe that § 22-8-40(L) charges South Carolina Court Administration to monitor compliance with § 22-8-40. I would respectfully defer to Court Administration for further advice or to ensure compliance with § 22-8-40.


Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an  
Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions

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<sup>1</sup> Because the response to your first question is that there is authority to classify magistrates only as either full-time or part-time, each such magistrate holds only one office. It is thus unnecessary to examine dual office holding issues.