

The State of South Carolina

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Office of the Attorney General

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February 15, 1990

The Honorable D. N. Holt, Jr.  
Chairman, Charleston County  
Legislative Delegation  
2 Courthouse Square, Room 317-A  
Charleston, South Carolina 29401

Dear Representative Holt:

By your letter of February 5, 1990, you have asked whether a constituent may serve concurrently on the Charleston County Planning Board and on the St. Andrews Parks and Playgrounds Commission.

Article XVII, Section 1A of the state Constitution provides that "no person may hold two offices of honor or profit at the same time . . .," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or a notary public. 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, 58 S.E. 762 (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, 274 S.C. 475, 266 S.E.2d 61 (1980).

This Office has opined on several occasions that one who serves on the Charleston County Planning Board would hold an office for dual office holding purposes. Enclosed please find copies of opinions dated April 21, 1976; July 15, 1975; and December 31, 1980.

Similarly, this Office has opined on at least two occasions that a member of the St. Andrews Parks and Playground Commission would hold an office for dual office holding purposes. Enclosed are copies of opinions dated July 21, 1981 and September 27, 1982.

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Based on the foregoing, it is the opinion of this Office that one who would serve concurrently on the Charleston County Planning Board and on the St. Andrews Parks and Playgrounds Commission would most probably contravene the dual office holding prohibitions of the State Constitution.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

*Robert D. Cook*

Robert D. Cook  
Executive Assistant for Opinions