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# The State of South Carolina



## Office of the Attorney General

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January 29, 1991

Mr. Derial L. Ogburn  
21 Carriage Lane  
Lugoff, South Carolina 29078

Dear Mr. Ogburn:

By your letter of January 18, 1991, you have asked whether service simultaneously on the South Carolina Board of Financial Institutions and on the Lugoff Water District Board of Directors would constitute dual office holding.

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 previously concluded that service on the Lugoff Water District governing body would constitute an office for dual office holding purposes. Enclosed is a copy of an opinion of this Office dated September 12, 1972, so concluding.

Likewise, this Office has advised previously that service on the South Carolina Board of Financial Institutions would constitute an office for dual office holding purposes. Enclosed are copies of opinions dated March 10, 1983 and September 26, 1983, so concluding.

Mr. Ogburn  
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Based on the foregoing, it is our opinion that simultaneous service on the governing body of the Lugoff Water District and on the South Carolina Board of Financial Institutions would most probably constitute dual office holding.

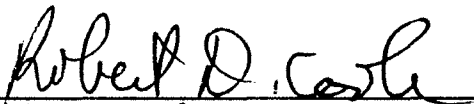
With kindest regards, I am

Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an  
Enclosures

REVIEWED AND APPROVED BY:

  
\_\_\_\_\_  
Robert D. Cook  
Executive Assistant for Opinions