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# The State of South Carolina



## Office of the Attorney General

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December 13, 1990

Mr. J. Marc Hehn  
117 Dorchester Avenue  
Summerville, South Carolina 29483

Dear Mr. Hehn:

By your letter of November 27, 1990, you have asked that we clarify two points in our opinion to you dated November 21, 1990, which concluded that, for dual office holding purposes, your position as Director of the Berkeley County Water and Sewer Authority would be considered employment rather than an office.

First, with respect to our statement in the fourth paragraph that you serve at the pleasure of Berkeley County Council, you advise that you technically serve at the pleasure of the Berkeley County Supervisor with appeal to council regarding personnel matters. This technical correction would not result in any change in the conclusion of our opinion.

Second, in the sixth paragraph, we stated our understanding of the procedures used to enforce statutes and ordinances relative to the Berkeley County Water and Sewer Authority. You advise that technically the Staff Attorney at the Authority is under your supervision on a day to day basis and works under the direct legal supervision of your General Counsel, who has a practice outside the Authority, to enforce same. (We had attributed your Staff Attorney to the county attorney's office.) While, as noted in the opinion, these duties are suggestive of an exercise of a portion of the sovereign power of the state, it is a close question which we resolve in favor of finding your position to be one of employment. We do not feel that your supervision of the Staff Attorney would change that conclusion, though we reiterate that the question is a close one.

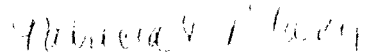
In conclusion, the clarification provided above does not appear to necessitate our changing the conclusion of our opinion to you

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dated November 21, 1990. Thank you for calling these technical factors to our attention.

With kindest regards, I am

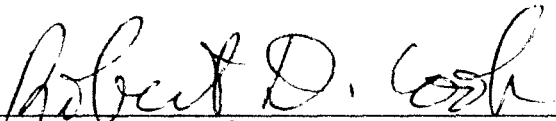
Sincerely,



Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions