

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

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COLUMBIA, S.C. 29211
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February 1, 1989

The Honorable Liston D. Barfield
Member, House of Representatives
416B Blatt Building
Columbia, South Carolina 29211

Dear Representative Barfield:

In a telephone call you questioned whether an individual may serve simultaneously on the Grand Strand Water and Sewer Authority's Board of Directors and as a commissioned officer with the State Wildlife and Marine Resources Department.

Enclosed please find copies of prior opinions of this Office dated July 21, 1986, February 18, 1986 and February 11, 1986 which concluded that a commissioned officer of the State Wildlife and Marine Resources Department would exercise sovereign power and thus be an officer for dual office holding purposes. In an opinion dated December 18, 1984 this Office similarly concluded that an individual serving on the governing board of the Grand Strand Water and Sewer Authority would be an officer for dual office holding purposes.

In conclusion, this Office would advise that one individual serving simultaneously on the governing board of the Grand Strand Water and Sewer Authority and as a commissioned officer of the State Wildlife and Marine Resources Department would most probably contravene the dual office holding provisions of the State Constitution.

If there are any further questions, please advise.

Sincerely,

A handwritten signature in cursive script, reading "Charles H. Richardson".

Charles H. Richardson
Assistant Attorney General

CHR/an
Enclosures

REVIEWED AND APPROVED BY:

A handwritten signature in cursive script, reading "Robert D. Cook".

Robert D. Cook
Executive Assistant for Opinions

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February 2, 1989

George A. Markert, Assistant Director
South Carolina Court Administration
Post Office Box 50447
Columbia, South Carolina 29250

Dear George:

In a letter to this Office you referenced that pursuant to a provision of Act No. 678 of 1988 codified as Section 22-8-40, a maximum number of magistrates in each county is established. Assuming that a county has more than its maximum number of magistrates and a full-time magistrate resigns, you have asked whether a county must designate any new appointee as a part-time magistrate so that the county would then have less than the maximum number of magistrates authorized or may the county designate the new appointee as a full-time magistrate even though the county would then have more than the maximum number of magistrates.

In a prior opinion of this Office dated December 22, 1988 it was noted that apparently it was the intention of the General Assembly that while a maximum number of magistrates was designated by Act No. 678, no magistrates serving on the effective date of the legislation would lose their positions. Instead the mechanism for reaching such designated number are factors such as death or resignation. Reference was made to Section 22-80-40(B)(3) which states "(n)o additional magistrates may be added until a county has less than the ratio."

Consistent with such, if a county has more than the maximum number of magistrates and a magistrate resigns, any new appointee must be designated as part-time if such a designation is necessary to avoid exceeding the maximum number of magistrates established for such county by Act No. 678. Of course, as noted in the prior opinion, legislative clarification could be sought which would detail precisely how a situation such as this should be handled.

Mr. George A. Markert
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If there is anything further, please advise.

Sincerely,

A handwritten signature in cursive script, reading "Charles H. Richardson", followed by a horizontal line.

Charles H. Richardson
Assistant Attorney General

CHR:sds

REVIEWED AND APPROVED BY:

A handwritten signature in cursive script, reading "Robert D. Cook", underlined.

ROBERT D. COOK
EXECUTIVE ASSISTANT FOR OPINIONS