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# The State of South Carolina



## Office of the Attorney General

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July 21, 1986

Furman Fendley, Chairman  
Union Soil and Water Conservation  
District  
124 West Main Street - Room 104  
Union, South Carolina 29379

Dear Mr. Fendley:

By your letter of July 1, 1986, you have asked whether an individual who is a Wildlife Technician and a commissioned officer of the South Carolina Wildlife and Marine Resources Department would be eligible to serve on the Union Soil and Water Conservation District Commission.

Article XVII, § 1A of the South Carolina Constitution provides that "... no person shall hold two offices of honor or profit at the same time." 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 advised on numerous occasions that one who serves on a soil and water conservation district commission would hold an office for dual office holding purposes. A representative opinion dated September 27, 1982, as to service on the Jasper Soil and Water Conservation District Commission, is enclosed herewith.

You have advised that the individual, as a Wildlife Technician, works with the management of land to enhance it for wildlife. He posts land in the Game Management area, gathers data on deer and turkey, plants wildlife food plots, plants

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public dove fields, and traps and relocates geese, turkey, and deer. Wildlife Technicians are classified as Class Codes 8583 (III), 8585 (II), and 8584 (I); the job descriptions for any of these positions coincide with the description of the individual's position which you have described and do not appear to involve an exercise of sovereign power.

However, you have also advised that the individual is a commissioned officer with the Wildlife and Marine Resources Department. While he has never arrested anyone, he is vested with law enforcement powers and does have arrest powers. This commission would thus involve an exercise of sovereign power and would make the individual an officer for dual office holding purposes. Cf., State v. Crenshaw, supra; Ops. Atty. Gen. dated September 27, 1982; February 18, 1986; February 11, 1986; and August 1, 1979, copies of which are enclosed.

Thus, one who would hold a wildlife officer's commission and at the same time serve on the Union Soil and Water Conservation District Commission would most likely contravene the dual office holding prohibitions of the State Constitution. It must be noted that the prohibition would not preclude the individual from offering for election to the Commission; if elected, however, the individual would have to then decide which office he wished to hold.

We trust that the foregoing has satisfactorily responded to your inquiry. Please advise if clarification or additional assistance should be necessary.

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP:hcs  
Enclosures

REVIEWED AND APPROVED BY:

*Robert D. Cook*

Robert D. Cook  
Executive Assistant for Opinions

cc: Buford Mabry, Esquire  
South Carolina Wildlife  
and Marine Resources Department