

The State of South Carolina



Office of the Attorney General

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June 19, 1987

The Honorable Benjamin E. Thrailkill, Jr.
Member, House of Representatives
Post Office Box 15407
Surfside Beach, South Carolina 29587

Dear Representative Thrailkill:

You have asked for the opinion of this Office as to whether one may serve simultaneously on the Horry County Board of Voter Registration and also as a member of the Committee on Tourism and Trade without violating the dual office holding prohibitions of the State Constitution. For the reasons following, it is the opinion of this Office that one who would so serve would not violate the dual office holding prohibitions of the Constitution.

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 concluded on numerous occasions that one who would serve on a county board of voter registration would be considered an officer for dual office holding purposes. As representative of those numerous opinions, I am enclosing a copy of an opinion dated October 20, 1982 which mentions other opinions reaching the same conclusion.

An examination of previously-issued dual office holding opinions reveals that this Office has not considered whether an individual serving on the Committee on Tourism and Trade would be an officer for dual office holding purposes. The Committee was created by Act No. 160, 1977 Acts and Joint Resolutions as

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amended by a proviso in Section 154 of Act No. 517 of 1980. The Committee consists of nine members, three of whom are State Senators, three of whom are Members of the House of Representatives, and three members who are appointed by the Governor. The individual in question is a gubernatorial appointee. The Acts do not provide for qualification for members who are appointed by the Governor, nor is an oath specifically called for. No specific term of office is specified. The members of the Committee are to be allowed the usual per diem mileage and subsistence as provided by law for members of state boards, commissions and committees. The duties of the Committee include the promotion of the tourist industry, acting as a continuing liaison group to study the programs and problems of tourism in the State, coordinating the efforts of the State Development Board and the State Department of Agriculture in the development of international agriculture and agro business markets, and making reports and recommendations on the above as the Committee sees fit. Studying problems, making reports and recommendations, and acting as a liaison between various agencies are not activities which appear to involve an exercise of a portion of the sovereign power of the State.

Because membership on the Committee on Tourism and Trade does not meet many of the criteria usually examined in the determination that a particular position is in fact a public office, this Office must conclude that one who would serve on the Committee would not be an officer for dual office holding purposes. Therefore, one who would serve simultaneously on the Horry County Board of Voter Registration and on the Committee on Tourism and Trade would not 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
Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions