

1983 WL 181850 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 19, 1983

*1 Mr. John M. Graham
First Federal of South Carolina
Post Office Box 1178
Sumter, South Carolina 29150

Dear Mr. Graham:

You have requested the opinion of this office on the question of whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for a member of the Sumter Area TEC Commission to also hold a State Constable's Commission.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) 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 \(1907\)](#). 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, 266 S.W.2d 61 \(1980\)](#).

This office has previously concluded on a number of occasions that persons holding constable's commissions are officers for dual office holding purposes. See, 1973 Op. Att'y. Gen. No. 3455; 1968 Op. Att'y. Gen. No. 2555; Opinion dated October 27, 1977 (copies enclosed).

The Sumter Area Technical Education Commission is created pursuant to Act No. 798 of the 1962 Statutes at Large. Its members are empowered pursuant to Section 4 thereof to, inter alia, acquire a site and construct and equip facilities when funds are made available by the General Assembly, to supervise the maintenance of facilities established to promote vocational or technical education, to promulgate and enforce rules and regulations for the operation of its facilities, and to expend all funds received.

These functions involve the exercise of the sovereign power of the State, and therefore, the members of Sumter Area Technical Education Commission would be considered officers for dual office holding purposes.

Based on the foregoing, it is the opinion of this Office that a person serving on the Sumter Area Technical Education Commission and holding a State Constable's Commission would be in violation of the dual office holding provisions of the South Carolina Constitution.

Very truly yours,

Helen T. Zeigler
Assistant Attorney General

1983 WL 181850 (S.C.A.G.)