

1983 WL 182060 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 18, 1983

*1 Helen T. Zeigler
Special Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Zeigler:

You have asked whether an individual serving on both the Board of School Trustees in Union County and on the Board of Trustees for the Monarch Fire Department would constitute dual office holding.

[Article XVII, Section 1A of the South Carolina Constitution](#) provides that no person shall hold two offices of honor or profit at the same time. In [Sanders v. Belue](#), 78 S.C. 177, 58 S.E. 762 (1907), the Court defined a public office as one which is 'created by law,' includes the exercise of some 'sovereign power, either small or great, which the public is concerned,' and requires some continuing performance. In [State v. Crenshaw](#), 274 S.C. 475, 266 S.E.2d 61 (1980), the Court elaborated upon the criteria to be examined in determining whether a position is a public office; whether the duties, tenure, salary, bond or oath are prescribed or required, and whether the one occupying the position is a representative of the sovereign are other important factors to be considered.

The Monarch Fire District was created by Act No. 970 of the 1964 Acts and Joint Resolutions. This Act was amended by 1968 Act No. 1113 to change the manner of selection of the Board from appointment to election. The powers given the Board include the purchasing of fire-fighting equipment, selecting volunteer firemen, promulgating rules and regulations concerning equipment use, and borrowing up to twenty thousand dollars in anticipation of taxes. The Board Members serve for four year terms. This office has previously held that members of such fire control boards hold offices within the meaning of dual office holding prohibitions. Op. Atty.Gen. dated May 18, 1983 (unpublished) (copy enclosed).

Similarly, this office has repeatedly held that a member of a local school board is a public officer for purposes of dual office holding. E.g., 1975 Op. Atty.Gen. No. 3974; 1975 Op. Atty.Gen. No. 4141.

In conclusion, it is the opinion of this office that simultaneously holding the above offices would violate the dual office holding prohibitions of the South Carolina Constitution.

Sincerely,

Robert D. Cook
Executive Assistant for Opinions

1983 WL 182060 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.