

1983 S.C. Op. Atty. Gen. 109 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-68, 1983 WL 167256

Office of the Attorney General

State of South Carolina

Opinion No. 83-68

September 15, 1983

**\*1** Simultaneous holding of the office of Aiken County Schools Trustee and Director/Treasurer of the Beech Island Rural Community Water District violates the dual office holding provisions of the Constitution.

Executive Director  
State Ethics Commission

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 an Aiken County Schools Trustee to also serve as Director/Treasurer of the Beech Island Rural Community Water District.

[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, 174 S.C. 475, 266 S.E.2d 61 \(1980\)](#).

This office has previously concluded that members of the Aiken County School Board hold offices for dual office holding purposes. See 1982 Op.Att’y.Gen., dated July 19, 1982.

The Beech Island Rural Community Water District was formed under an Act which is now codified as [Sections 6–13–10 et seq., Code of Laws, 1976](#). The powers given to the members of the governing board of the District include the power of eminent domain, the authority to issue negotiable bonds, and to prescribe rates and regulations under which water shall be sold. A review of these powers reveals that members are authorized to exercise a portion of the sovereign power of the State and would, therefore, be considered office holders under the South Carolina Constitution. This conclusion is in keeping with prior opinions of this office regarding similar district. See, 1982 Op.Att’y.Gen., dated August 4, 1982, and 1971 Op.Att’y.Gen. No. 3155.

Based on the foregoing, it is the opinion of this office that a person serving as an Aiken Schools Trustee and Treasurer of the Beech Island Rural Community Water District would be violating the dual office holding provisions of the South Carolina Constitution.

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