

1983 WL 181988 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 2, 1983

*1 Gordon L. Rhoden
Coroner
Office of the Coroner of Hampton County
Post Office Box 296
Hampton, South Carolina 29924

Dear Mr. Rhoden:

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 Hampton City Council to also serve as the Assistant Coroner for Hampton County.

[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 previously determined that a member of a city council holds an office within the meaning of the dual office holding provisions of the Constitution. See, 1981 [Op. Atty. Gen.](#), dated September 20, 1981, and 1982 [Op. Atty. Gen.](#), dated June 18, 1982 (copies enclosed). This conclusion appears to be based upon the fact that the position of municipal councilman is an elective office which duties involve an exercise of the sovereign power of the state.

Similarly, this office has repeatedly expressed the opinion that coroners and deputy coroners hold offices for dual office holding purposes. See, 1982 [Ops. Atty. Gen.](#), dated April 20, 1982 and July 15, 1982 (copies enclosed). If you use the term ‘assistant coroner’ to mean a person deputized by the coroner under [§ 17-5-10, South Carolina Code of Laws](#) (1976), then that person would still be considered an office holder. Our opinion would be the same even if the ‘assistant coroner’ were part-time and/or unsalaried, as he/she would be authorized to exercise the sovereign power of the State.

Based on the foregoing, it is opinion of this office that a person serving as a Hampton city councilman and as the Assistant Coroner for Hampton County would be violating the dual office holding provisions of the South Carolina Constitution.

Sincerely,

Carol P. Black
Staff Attorney

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