

1983 S.C. Op. Atty. Gen. 39 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-23, 1983 WL 142694

Office of the Attorney General

State of South Carolina

Opinion No. 83-23

June 24, 1983

*1 Leonard L. Long, Jr., Esquire
County Attorney
Post Office Box 419
Charleston, South Carolina 29402

Dear Mr. Long:

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 Clemson University Board of Visitors to also serve on the Charleston County Park, Recreation and Tourist Commission.

[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).

The present Charleston County Park, Recreation and Tourist Commission was created pursuant to Act No. 1595 of the 1972 Statutes at Large. Its members are empowered under Section 5 to do the following: acquire lands whereupon to establish county parks or tourist attractions, and operate such facilities; acquire and operate equipment; fix rates and charges for the use of the facilities; make contracts for construction and other services; issue revenue bonds; and expend all funds received. These functions involve the exercise of the sovereign power of the State, and therefore, the members of the Charleston County Park, Recreation and Tourist Commission would be considered officers for dual office holding purposes.

The Clemson University Board of Visitors is not created pursuant to any legislative enactment. It is provided for in the by-laws of the Clemson University Board of Trustees, which states that the Board of Visitors is a group of distinguished citizens who serve Clemson University in a public relations capacity by informing the public and government officials on the importance of Clemson University to the State of South Carolina and the nation. The duties imposed on this Board of Visitors, the length of terms of office, and the number of members are left to the discretion of the Board of Trustees. This office has previously concluded in a similar, although not identical, situation that persons serving on this type of board are not officers for dual office holding purposes. *See*, 1975 Opinion of the Attorney General No. 699, dated November 12, 1975 (copy enclosed). Since the Board of Visitors' role is merely of a public relations nature, a member of the Board would not exercise any sovereign power of the State. This being the case, a member of the Clemson University Board of Visitors would not be an officer for dual office holding purposes.

*2 Based on the foregoing, it is the opinion of this office that a person serving on the Charleston County Park, Recreation and Tourist Commission and the Clemson University Board of Visitors would not be violating the dual office holding provisions of the South Carolina Constitution.

Sincerely,

Carol P. Black

Staff Attorney

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