

1982 WL 189339 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 22, 1982

*1 The Honorable Jennings G. McAbee
Member
House of Representatives
Box 265
McCormick, South Carolina 29835

Dear Representative McAbee:

You have requested the opinion of this Office on the question of whether the members of the Board of Commissioners of Public Works of the City of Greenwood can also serve as voting members of the Greenwood Metropolitan District Sewer Commission. Your inquiry is specifically directed to a possible violation of the dual office holding provisions of the South Carolina Constitution.

This State's Constitution contains several provisions prohibiting dual office holding. The provision applicable in the situation you have cited in [Article XVII, § 1A of the South Carolina Constitution](#) which provides that 'no person shall hold two offices of honor and profit at the same time.' For this provisions to be contravened, a person must hold concurrently two offices created by law which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#). This provision does not apply, however, to ex officio membership on a board or commission which has functions related to that of the original office. [Ashmore v. Greater Greenville Sewer Dist., 211 S.C. 77 \(1947\)](#).

The Greenwood Metropolitan District Sewer Commission was created pursuant to Act No. 441 of the 1959 Acts and Joint Resolutions. The membership of the Commission is provided for in Section 2 of the Act and includes the three Commissioners of Public Works of the City of Greenwood as ex officio members. This section was amended to increase the compensation of the commissioners by Act No. 680 of the 1973 Acts and Joint Resolutions, but the composition of the commission did not change.

Since the Commissioners of Public Works serve on the Sewer Commission as ex officio members, and the functions of the Sewer Commission are related to those of the Public Works Commission, there is no violation of the dual office holding provisions of the South Carolina Constitution in the situation you have presented.

Very truly yours,

Helen T. Zeigler
State Attorney

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