

1982 WL 189392 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 4, 1982

\*1 The Honorable William W. Doar, Jr.  
Senator  
Senatorial District No. 16  
Box 418  
Georgetown, South Carolina 29440

Dear Senator Doar:

You have requested the opinion of this Office on the question of whether a person can serve concurrently on the Georgetown County Recreation Commission and on the Georgetown County Water and Sewer District.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) 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 \(1907\)](#). 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, 266 S.E.2d 61 \(1980\)](#).

The Georgetown County Recreation Commission was created by Act No. 659 of the 1973 Acts and Joint Resolutions. It is authorized under that Act, *inter alia*, to issue and sell revenue bonds of the Georgetown County Recreation District. This kind of function has been found by this Office to involve an exercise of the sovereign power of the State, and thus the members of the Commission would be considered officeholders within the meaning of the dual office holding provisions of the Constitution. Previous opinions concerning county recreation commissions support this conclusion. *See*, 1977 Op. Atty. Gen. No. 77-372; Op. Atty. Gen. dated April 20, 1977 to the Honorable Frank H. McGill; Op. Atty. Gen. dated March 12, 1981 to the Honorable Archibald Hardy; Op. Atty. Gen. dated February 3, 1978, to the Honorable Nikki Setzler. (Copies enclosed herein.)

The Georgetown County Water and Sewer District was established by Act No. 733 of the 1967 Acts and Joint Resolutions and was authorized therein to acquire, construct and operate a water and sewer system in the District's service area. The powers given to the members of the District in Section 4 of the Act are extensive and include that to issue negotiable bonds, to exercise eminent domain and to prescribe rates and regulations under which water shall be sold. A review of these powers reveals that the members of the District are authorized to exercise a portion of the sovereign power of the State and would, therefore, be considered officeholders under the South Carolina Constitution. This conclusion is in keeping with past opinions of this Office regarding similar Districts. *See*, 1971 Op. Atty. Gen. No. 3155; Op. Atty. Gen. dated January 3, 1978, to Honorable Ralph Ellis; Op. Atty. Gen. dated June 26, 1980, to James Bell. (Copies enclosed herein.)

Based on the foregoing, it is the opinion of this Office that membership on both the Georgetown County Recreation Commission and the Georgetown County Water and Sewer Authority would be forbidden by the dual officeholding provisions of the South Carolina Constitution.

Very truly yours,

\*2 Helen T. Zeigler  
State Attorney

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