

1980 WL 120585 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 7, 1980

*1 Mr. Charles Gatch
Executive Director
Beaufort County Joint Planning Commission
Post Office Drawer 1228
Beaufort, South Carolina 29902

Dear Mr. Gatch:

You have asked the opinion of this Office concerning whether a member of the Beaufort County Joint Planning Commission may concurrently serve as a member of the Beaufort City Council.

The Beaufort County Joint Planning Commission is a joint city-county planning commission established pursuant to Article 3, Act Number 483 of the 1967 Acts and Joint Resolutions, which is now codified as [Sections 6-7-310 to 6-7-390, Code of Laws of South Carolina](#), 1976. More specifically, Section 6 of Act Number 483 provides that a member of a planning commission may not be an elected official in the municipality or county from which he is appointed.

As I understand the specifics of your request for an opinion, you wish to know if Section 6 of Act Number 483 prohibits a person appointed to the Beaufort County Joint Planning Commission by the Beaufort County Council from simultaneously serving as a member of the Beaufort City Council. However, it is not necessary to utilize Section 6 in disposing of the situation posed by you, because it can be answered by inquiring whether such would constitute a violation of [Article XVII, § 1A of the South Carolina Constitution](#).

[Article XVII, § 1A](#) provides that ‘... no person shall hold two offices of honor and 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 \(1907\)](#).

This Office has consistently concluded that a member of the governing body of a municipality holds an office within the meaning of [Article XVII, § 1A](#). 1964-1965 Ops. Atty. Gen., No. 1902; 1965-1966 Ops. Atty. Gen., No. 2106; 1974-1975 Ops. Atty. Gen., No. 4139.

This Office has previously concluded that a member of a planning commission created pursuant to statutes of this State holds an office within the meaning of [Article XVII, § 1A](#), because the discharge of the duties thereof involves to some degree an exercise of a portion of the sovereign power of the State. Opinion to David Nixon, Williamsburg County Council, dated April 7, 1977 (copy enclosed); 1976 Ops. Atty. Gen., No. 4336. A review of the powers and duties enumerated in Sections 4 and 5 of Article 3 of Act Number 487 leads to the same conclusion with regard to the Beaufort County Joint Planning Commission. Also see Sections 6-7-710 to 6-7-1280.

Based on the foregoing, it is the opinion of this Office that it would violate the dual office-holding prohibition of [Article XVII, § 1A of the South Carolina Constitution](#) for a person to serve concurrently as a member of the Beaufort County Joint Planning Commission and the Beaufort City Council.

Sincerely,

James M. Holly

State Attorney

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