

1982 WL 189414 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 3, 1982

*1 Shirley L. Johnson
Mayor Pro-Tem
City of Goose Creek
Post Office Box 236
Goose Creek, South Carolina 29445

Dear Mrs. Johnson:

You have requested the opinion of this office on the question of whether the dual office holding provisions of the South Carolina Constitution prohibit a person from serving concurrently as Mayor Pro-Tempore for the City of Goose Creek and as a member of the Berkeley County Soil and Water Conservation District Commission.

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 \(1980\)](#).

This office has issued several previous opinions which have found that members of soil and water conservation district commissions hold offices within the meaning of the dual office holding prohibitions. [See, Op. dated January 27, 1982, to F. Hall Yarborough](#); and [Op. dated March 29, 1982 to Joseph H. Earle](#) (copies enclosed).

[Section 5-7-190 of the Code of Laws of South Carolina, 1976](#), as amended, provides for the election of a Mayor Pro Tempore by and from the membership of the municipal council. Since this office has repeatedly found that members of municipal councils hold offices for dual office holding purposes, a Mayor Pro Tempore, who can potentially exercise even greater powers than those of municipal councilmen, would certainly be considered an office holder. [See, e.g., Op. dated January 7, 1980 to Charles Gatch](#) (copy enclosed).

Based on the foregoing, it is the opinion of this office that it would violate the dual office holding provisions of the South Carolina Constitution for a person to serve concurrently as a Mayor Pro Tempore and as a member of a Soil and Water Conservation District Commission.

Very truly yours,

Helen T. Zeigler
Assistant Attorney General

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