

1980 WL 121083 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 10, 1980

\*1 Ms. Virginia D. Lathan  
County Administrator  
Office of County Council of Hampton County  
Post Office Box 103  
Hampton, South Carolina 29924

Dear Ms. Lathan:

You have asked the opinion of this Office on whether the Hampton County Treasurer may serve concurrently as the Delinquent Tax Collector for Hampton County.

[Article XVII, § 1A of the South Carolina Constitution](#) provides that ‘. . . no person shall hold two offices of honor and profit at the same time.’ For this provision to be violated, a person concurrently must hold two public offices which have duties involving an exercise of some part of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#).

It is clear that the position of county treasurer is a public office having many duties involving an exercise of some portion of the sovereign power of the State. See [§§ 12-45-10, et seq., Code of Laws of South Carolina](#), 1976, and other various sections throughout Title 12.

The position of Delinquent Tax Collector for Hampton County was created by Act Number 597, Acts and Joint Resolutions, 1946. Although there have been some amendments to Act Number 597 and modifications in the form and powers of the governing body of Hampton County, the powers of the position have remained the same. The position is given ‘all duties, power and authority heretofore vested in the Sheriff of Hampton County, for the purpose of collecting delinquent taxes and the sale and conveyance of property therefor.’ Act Number 597, Section 4. It should be noted that the powers of the Sheriff in this regard are provided throughout Title 12, Code of Laws of South Carolina, 1976, as amended. For example, [see § 12-49-460](#), which empowers the Sheriff to seize property. Due to these powers, which involve an exercise of a portion of the sovereign power of the State, the position of Delinquent Tax Collector for Hampton County is a public office within the meaning of the provisions prohibiting dual office holding.

Based on the foregoing, it is the opinion of this Office that it would violate [Article XVII, § 1A of the South Carolina Constitution](#) for the Treasurer of Hampton County to serve concurrently as the Delinquent Tax Collector therefor.

With personal regards,

James M. Holly  
State Attorney

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