

1980 WL 121254 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 2, 1980

*1 Allan J. Spence
Director
State of South Carolina
Budget and Control Board
Division of Motor Vehicle Management
Post Office Box 633
Columbia, South Carolina 29202

Dear Mr. Spence:

You recently have asked the opinion of this Office on whether it would be a violation of the constitutional provisions prohibiting dual office holding for you, as the State Fleet Manager, to hold simultaneously a state-wide constable's commission.

[Article XVII, § 1A of the South Carolina Constitution](#) provides ‘. . . that no person shall hold two offices of honor and profit at the same time.’ Also see Article VI, § 3. 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 \(1907\)](#); also see [State v. Crenshaw](#), Supreme Court of South Carolina, Op. No. 21189 (April 9, 1980). Thus, if one of the positions identified by you is not a public office within the meaning of [Article XVII, § 1A](#), the prohibition would not apply.

Although the position of State Fleet Manager is created by [§ 1-11-220, Code of Laws of South Carolina, 1979 Cum. Supp.](#), the sections thereafter do not provide this position with any powers that involve an exercise of some part of the sovereign power of the State, §§ 1-11-230, et seq., or contain other provisions that would make it a public office within the meaning of [Article XVII, § 1A](#). The position of State Fleet Manager, therefore, is one of mere employment. [Sanders v. Belue](#), S.C. at 174. Based on the foregoing, it is the opinion of this Office that it would not be a violation of the constitutional provisions prohibiting dual office holding for the State Fleet Manager concurrently to hold a statewide constable's commission.

With personal regards,

James M. Holly
State Attorney

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