

1980 WL 120937 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 21, 1980

*1 The Honorable Beattie E. Huff
Representative—District No. 19
Route 1
Greenville, South Carolina 29611

Dear Representative Huff:

You have asked the opinion of this Office on whether a person may hold concurrently positions as a member of the Greenville County Recreation Commission, a member of the Belmont Fire District and a constable.

[Article XVII, § 1A of the South Carolina Constitution](#) states 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 controvened, 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 criteria such as tenure, salary, oath, etc., also may be relevant. [State v. Crenshaw](#), South Carolina Supreme Court, Op. No. 21189, 4-9-80.

Pursuant to acts of the General Assembly, the commissioners of the Greenville County Recreation Commission are appointed and have certain enumerated duties and powers. Act No. 1329, Acts and Joint Resolutions, 1968; Act Nos. 17 and 55, Acts, [supra](#), 1969. The commissioners for the Belmont Fire District, as set forth in the acts providing for the District, are elected and have certain enumerated duties and powers. Act No. 1208, Acts, [supra](#), 1968; Act No. 1255, Acts, [supra](#), 1970. A review of these two positions leads to the conclusion that each constitutes a public office within the meaning of [Article XVII, § 1A](#). If the governing body of Greenville County has altered these commissions, subsequent to the implementation of home rule, this conclusion may need to be reconsidered.

Although not specified in your correspondence requesting an opinion, I assume the position of constable to which you refer is that of a State constable without pay. [Sections 23-1-60, 23-1-70, Code of Laws of South Carolina, 1976](#). This Office previously has determined that this position constitutes a public office within the meaning of the aforementioned constitutional provision. Op. Atty. Gen'l., July 12, 1976.

Based on the foregoing, it is the opinion of this Office that a person may not serve concurrently as a member of the Greenville County Recreation Commission, a member of the Belmont Fire District and a State constable in that this would contravene [Article XVII, § 1A of the South Carolina Constitution](#).

Sincerely,

James M. Holly
Assistant Attorney General

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