

1980 WL 120821 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 13, 1980

*1 Honorable R. Carter Smith
Executive Director
Jasper County Development Board
123 B East Wilson
Post Office Box 1267
Ridgeland, South Carolina 29336

Dear Mr. Smith:

You have requested an opinion from this Office as to whether a member of the Jasper County Council who serves on the Jasper County Development Board is involved in a conflict of interests. The more appropriate inquiry, answered by this opinion, is whether there is a violation of the dual office holding provisions of the [South Carolina Constitution, Article VI, Section 3](#) and Article XVII, Section 1A provide that no person shall hold two offices of honor or profit at the same time.

A 1907 decision has defined an officer as follows:

One who is charged by law with duties involving an exercise of some part of the sovereign power, either small or great, in the performance of which the public is concerned, and which are continuing and not occasional or intermittent, is a public officer.

[Sanders v. Belue, 78 S.C. 171, 58 S.E. 762 \(1907\)](#). The Jasper County Development Board was created by Act No. 34 of 1961, as amended, a copy of which is attached hereto. The powers and duties of the Board include purchasing property and entering into contracts in the name of the county to promote and develop agriculture, commerce, and industry within the county. These powers and duties obviously involve exercise of the sovereignty; therefore, members of the Board are officers within the [Sanders](#) definition.

Likewise, this Office has consistently held that a member of County Council is an officer. [See](#) Attorney General's Opinion dated April 7, 1977, enclosed herewith. Accordingly, a person may not concurrently hold a position as county councilman and member of the Jasper County Development Board without violating the dual office holding provision of the State Constitution.

I trust this answers your question. Please do not hesitate to contact me if you need further assistance.

Sincerely,

James W. Johnson, Jr.
Assistant Attorney General

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