



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
 ATTORNEY GENERAL

June 19, 1997

C. Leslie Carpenter, Dean of the University  
 University of South Carolina-Sumter  
 200 Miller Road  
 Sumter, South Carolina 29150-2498

Re: Informal Opinion

Dear Dean Carpenter:

Your recent opinion request has been forwarded to me for reply. You ask whether membership on a Sumter County Transportation Committee and the Mid-Carolina Commission for Higher Education constitutes dual office holding.

Article XVII, Section 1A of the State Constitution provides that "no person may hold two offices of honor or profit at the same time ...," with exceptions specified for an officer in the militia, member of a lawfully and regularly organized fire department, constable, or notary public. 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, 58 S.E. 762 (1907). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its duties or salary, or require qualifications or an oath for the position. State v. Crenshaw, 274 S.C. 475, 266 S.E.2d 61 (1980).

As to the Sumter County Transportation Committee, this Office has previously opined that although not entirely free from doubt, it appears that one who would serve on a county transportation committee would hold an office for dual office holding purposes. Ops. Atty. Gen. dated December 18, 1996; July 23, 1996; and May 16, 1995.

As to the Mid-Carolina Commission for Higher Education, this body was created by the General Assembly by Act No. 468. The Commission is to consist of nine members

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from the member counties, appointed by the Governor upon the recommendation of a majority of the legislative delegations from the member counties. A term of four years and until one's successor is appointed and qualifies, is specified. No compensation or oath is mentioned in the Act. Certain powers and duties are specified in the Act, including encouraging higher education in the member counties, establishing facilities for higher education in the member counties, entering into contracts and agreements, and negotiating with educators and educational institutions.

This Office has previously examined membership on county higher education commissions, concluding that such membership would constitute an office for dual office holding purposes. Ops. Atty. Gen. dated October 14, 1994 and March 27, 1992. The duties and powers of the Mid-Carolina Commission for Higher Education are very similar to those exercised by like commissions and appear to involve an exercise of a portion of the sovereign power of the State. Therefore, it is this Office's opinion that one who serves on the Mid-Carolina Commission for Higher Education would most probably hold an office for dual office holding purposes.

To summarize the foregoing, if an individual were to simultaneously serve on the Sumter County Transportation Committee and the Mid-Carolina Commission for Higher Education, a dual office holding problem would most probably arise.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch  
Assistant Attorney General