

1982 WL 189272 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 28, 1982

*1 Joab M. Dowling, Esquire
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Dear Mr. Dowling:

You have requested the opinion of this Office on the question of whether a person concurrently serving as a member of the Beaufort County Joint Planning Commission and as a member of Beaufort-Jasper County Water Authority would be in violation of the dual office holding provisions of the South Carolina Constitution.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) that ‘. . . no person shall hold two offices of honor or profit at the same time.’ 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 \(1907\)](#).

This Office has recently issued an opinion advising that members of the Beaufort County Joint Planning Commission hold offices under the South Carolina Constitution. [See, Op. Att’y. Gen. to Charles Gatch, issued January 7, 1980 \(copy attached hereto\)](#). This conclusion was based, in part, on the finding that members of the Beaufort County Joint Planning Commission exercise a portion of the sovereign power of the State.

The Beaufort-Jasper County Water Authority was created in 1954 by Act No. 784 of the South Carolina Legislature. Although the Act has been amended several times since then, the powers of the Authority and duties of its members have remained basically unchanged. The Authority is empowered under Section 4 of the Act to acquire supplies of fresh water and provide a system for the collection, treatment and disposal of sewage. In accomplishing these purposes the Authority may, *inter alia*, prescribe rates and regulations under which water shall be sold, prescribe regulations protecting against water pollution, issue bonds, and exercise the power of eminent domain. These functions have traditionally been considered to involve an exercise of the sovereign power of the State. Under the case of [Sanders v. Belue, supra](#), members of the Authority would be considered office holders for purposes of the dual office holding provisions of the South Carolina Constitution.

Based on the foregoing, it is the opinion of this Office that a person concurrently serving as a member of the Beaufort County Joint Planning Commission and as a member of the Beaufort-Jasper County Water Authority would be in violation of the dual office holding prohibition of [Article XVII, § 1A of the South Carolina Constitution](#).

Very truly yours,

Helen T. Zeigler
Staff Attorney

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