

1982 WL 189485 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 9, 1982

\*1 Philip E. Wright, Esquire  
Richards and Wright  
Post Office Box 150  
Lancaster, South Carolina 29720

Dear Mr. Wright:

You have requested the opinion of this Office on the question of whether a person serving concurrently as a State Highway Patrolman and as a member of the Lancaster County Airport Commission 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 \(1907\)](#). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw, 266 S.E.2d 61 \(1980\)](#).

The Lancaster County Airport Commission was created pursuant to Lancaster County Ordinance No. 68, dated June 24, 1981, which provided for appointment of Commission members by the Lancaster County Council. The purpose of the Commission as stated in the Ordinance is to administer the handling of all matters affecting airports and to establish rules, policies, plans and procedures for the County Airport. To this end, the Commission is specifically empowered to prepare the annual expense and revenue budgets for the airport, recommend methods of management and operation of the airport, to appoint an Operator for the County Airport subject to approval by the County Council, to develop plans for the maintenance and future uses of the airport, and to accept all property given by the Federal Government or any of its agencies to promote and advance aeronautics in Lancaster County. These functions involve an exercise of the sovereign power of the State, and therefore, the Commission members would be considered officers for dual office holding purposes. This conclusion is in keeping with a previous opinion of this Office which concluded that members of the Marlboro County Airport Commission, which is given powers very similar to those of the Lancaster Commission, are officeholders in the Constitutional sense. [See, 1975 Op. Atty. Gen., No. 4001](#) (copy attached).

Similarly, this Office has concluded that highway patrolmen are given the authority to exercise a portion of the sovereign power of the State, and are, therefore, to be considered officers under the South Carolina Constitution. [See, 1975 Op. Atty. Gen., No. 3953](#); and Opinion dated October 14, 1982 to Mr. Sullivan (copies attached).

Based on the foregoing, it is the opinion of this Office that a person could not serve concurrently as a highway patrolman and a member of the Lancaster County Airport Commission without violating the dual office holding provisions of the South Carolina Constitution.

Very truly yours,

\*2 Helen T. Zeigler  
Assistant Attorney General

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