

1984 S.C. Op. Atty. Gen. 176 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-68, 1984 WL 159875

Office of the Attorney General

State of South Carolina

Opinion No. 84-68

June 19, 1984

*1 The Honorable Mary P. Miles
Member
House of Representatives
Box 29
St. Matthews, South Carolina 29135

Dear Representative Miles:

You have inquired as to the following: may a person who is the nominee for a House seat resign his candidacy and run for the Senate. We would advise that there is no provision of law prohibiting this. The only problem posed is not a legal one, but a practical one.

If the resignation of the House candidacy comes in sufficient time for the party to hold a convention or primary to fill the vacancy, there would be no problem with the party replacing the person with a new House candidate. However, if sufficient time does not remain to fill this position by a convention or primary, it would be doubtful that the party could replace this candidate.

The provisions of South Carolina Code of Laws, 1976, Section 7-11-50 allow the party to replace its nominee only if the . . . party nominee dies, becomes disqualified after his nomination or resigns his candidacy for a legitimate nonpolitical reason as defined in this section and sufficient time does not remain to hold a convention or primary to fill the vacancy or to nominate a nominee to enter a special election . . .

A candidate resigning his candidacy to run for another office would not fall within these provisions. Therefore, if sufficient time did not remain to replace the candidate by convention or primary method, the party could not nominate a replacement candidate for the House position. Again, however, Section 7-11-50 places no prohibition upon the candidate himself, but simply provides the method by which the party may replace a nominee under certain circumstances.

If we may be of further assistance, please let us know.

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

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