

1980 WL 121115 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 21, 1980

*1 Mr. John M. Moorer
4940 Ashby Avenue
North Charleston, South Carolina 29406

Dear Mr. Moorer:

You have asked the opinion of this Office on whether there are any prohibitions against your running for the South Carolina House of Representatives because you are employed as the Director of the Physical Plant for Trident Technical College.

As I understand your position with Trident Technical College, it is not a public office, but rather one of mere employment. [See § 59-53-410, et seq., Code of Laws of South Carolina, 1976; Sanders v. Belue, 78 S.C. 171 \(1907\)](#). Therefore, if you were elected to the House of Representatives, you would not be in violation of the dual office holding provisions in the [South Carolina Constitution, Article XVII, § 1A; Article VI, § 3, South Carolina Constitution](#).

Agencies, departments and institutions of the State of South Carolina and the political subdivisions thereof may promulgate their own rules and regulations governing the political activities of its employees. You should check with the personnel department of the institution employing you to determine if it has any such rules and regulations.

If an employee of an agency, department or institution of the State or of a political subdivision thereof is paid in whole or part by federal funds, or if his employment involves activities which receive federal funds, [Title 5, §§ 1501, 1502 of the United States Code](#) may prohibit the employee from offering for elective office. Advice concerning the activities to which this prohibition is applicable should be requested from the Information Unit of the Office of General Counsel for the United States Civil Service Commission. For your convenience, I have enclosed copies of the aforementioned sections for the United States Code.

You also should be advised that it is possible that your employment and your serving as a member of the House may in certain instances create a conflict of interest as defined by Title 8, Chapter 3 of the Code of Laws of South Carolina, 1976, as amended. Although these statutes would not prohibit you from offering for election to the House of Representatives, you may wish to ask for an advisory opinion from Gary Baker, Executive Director, State Ethics Commission, 1026 Sumter Street, Room 116, Post Office Box 11627, Columbia, South Carolina 29211, (758-7408). The opinion could address the issues of whether there would be any potential conflicts of interests and if so, the effect thereof.

Based on the foregoing, if you are otherwise qualified, it is the opinion of this Office that there is no statute or constitutional provision of the State of South Carolina that would prohibit you from offering for election to the South Carolina House of Representatives because of your employment with Trident Technical College.

Sincerely,

James M. Holly
State Attorney

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