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# The State of South Carolina



## Office of the Attorney General

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July 31, 1992

The Honorable Alex Harvin, III  
The Majority Leader Emeritus  
House of Representatives  
Post Office Box 266  
Summerton, South Carolina 29148

Dear Representative Harvin:

Attorney General Medlock has referred your recent letter to me for reply. You have noted the statutory prohibition of a person voting in two different political party's primaries and have inquired if a person can vote in the Republican Presidential primary and still be a candidate for office in the Democratic primary. There does not appear to be a statutory prohibition to this occurrence.

S.C. Code Ann. §7-13-1010 (1976) states that every voter in a primary takes an oath that the voter is

... duly qualified to vote at this primary election and that I have not voted before at this primary election or in any other party's primary election or officially participated in the nominating convention for any vacancy for which this primary is being held.

The language of this section prohibits a person voting in two primaries which are nominating candidates for the same offices.<sup>1</sup> The statute would not appear to prohibit a person being a Democratic candidate if the person had voted in the Republican Presidential primary. Additionally, voting in a Presidential primary of another party would not appear to violate the candidate's pledge that is

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<sup>1</sup> A person voting in a special Presidential preference primary would not be voting for the same offices in the regular primary held at a later date.

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executed when a candidate files for offices. See, S.C. Code Ann. §7-11-210 (1976).

I am enclosing a 1980 opinion written by Attorney General McLeod to T. Allen Legare regarding voting in a presidential election which is the only prior opinion I could locate that was somewhat on point. However, it should be noted that the opinion discusses voting in a Presidential primary and another party's primary - not running for office and as of 1991 the procedure for holding a presidential election has now been provided by statute. S.C. Code Ann. §7-11-20 (1991).

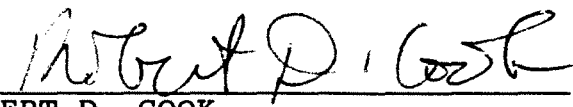
Very truly yours,



Treva G. Ashworth  
Senior Assistant Attorney General

TGA:bvc  
Enclosure

REVIEWED AND APPROVED BY:

  
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Chief Deputy Attorney General  
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