

1983 WL 181871 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 29, 1983

*1 Honorable Luther L. Taylor, Jr.
Member
House of Representatives
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Taylor:

You have sought my advice concerning whether a member of the General Assembly is prohibited by [Article III, Section 24 of the South Carolina Constitution \(1895\)](#) from serving as Executive Director of the Richland Medical Center. It is my understanding that the Center is an eleemosynary corporation and is federally funded pursuant to Section 330 of P.L. 94-63, as well as through fees charged to clients who utilize the Center's services. I further understand that local government may also be involved to some extent in funding the Center. I am also informed that the Executive Director of the Center will be a permanent full-time employee of Richland Memorial Hospital and will serve at the level of a department head. It appears that the services of the Executive Director will be provided to the Center on a contractual basis.

[Article III, Section 24](#) provides:

No person shall be eligible to a seat in the General Assembly while he holds any office or position of profit or trust under this State, the United States of America or any of them, or under any other power, except offices in the militia and notaries public; and if any member shall accept or exercise any of the said disqualifying offices or positions he shall vacate the office. [Emphasis added.]

It is quite doubtful that the situation you present would constitute dual office-holding, as that term is normally used, because the position of Executive Director of the Center, most probably, would not constitute an 'office'. See, [Sanders v. Belue](#), 78 S.C. 171, 174, 58 S.E. 762, 763 (1907); [State v. Crenshaw](#), 274 S.C. 475, 266 S.E.2d 61, 62 (1980); [South Carolina Constitution](#), Art. XVII, § 1A, Art. VI, § 3 (1895).

However, in a previous opinion issued on April 16, 1982 (a copy of which is enclosed), this office concluded that [Article III, Section 24](#), prohibited not only dual office-holding with respect to members of the General Assembly, but also: any other employment for the State of South Carolina, the United States Government, or any other governmental power.

The basis for this conclusion was [Article III, Section 24](#)'s use of the word 'position' in addition to the term 'office'. And it was stated in [Ashmore v. Greater Greenville Sewer Dist.](#), 211 S.C. 77, 90, 44 S.E.2d 88 (1947) that [Article III, Section 24](#) 'forbids the holding of other public office or position, and provides that upon acceptance of such by a member he shall vacate his seat.' [Emphasis added.] In [Ashmore](#), the member of the General Assembly served as a member of a board of auditorium trustees for the Greater Greenville Sewer District.

A full-time permanent and relatively high-ranking employee of Richland Memorial Hospital, such as an Executive Director of a Medical Center, would likely be considered a public employee within the meaning of [Ashmore](#) and the above referenced opinion. See, 1972 Act No. 1945, Acts and Joint Resolutions, p. 3907. Thus, based upon the foregoing, I would advise that it

is doubtful whether the member of the General Assembly in question could lawfully accept the position of Executive Director of the Richland Medical Center.

*2 I would add, however, that this office has consistently advised in previous opinions that any question by this office that a member of the General Assembly may lawfully hold another position does not affect [the] . . . status as a member of the General Assembly; that question is for determination by the General Assembly itself, which has the constitutional authority to judge the qualifications of its members. See, Culbertson v. Blatt, 194 S.C. 105, 95 S.E.2d 218.

See, e.g., 1982 Op.Atty.Gen. (unpublished opinion, dated February 22, 1982) [copy enclosed herein].

I hope this fully responds to your inquiry and, if you have any further questions, please do not hesitate to give me a call.

Very truly yours,

T. Travis Medlock
Attorney General

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