



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

Sawyer

BRUCE E. BABBITT
ATTORNEY GENERAL

November 15, 1977

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ARIZONA ATTORNEY GENERAL

The Honorable Ed C. Sawyer
President
Arizona State Senate
Senate Wing
1700 W. Washington
Phoenix, Arizona 85007

Re: 77-216

(R77-314A)

Dear Senator Sawyer:

On October 7, 1977, you wrote to request our opinion on this question:

"Is it possible for a member of the Senate or House of Representatives to resign his or her seat in order to accept a gubernatorial appointment?"

Article 4, Part 2, Section 5 of the Arizona Constitution contains the following prohibition:

"No member of the Legislature, during the term for which he shall have been elected or appointed shall be eligible to hold any other office or be otherwise employed by the State of Arizona or, any county or incorporated city or town thereof. This prohibition shall not extend to the office of school trustee, nor to employment as a teacher or instructor in the public school system."

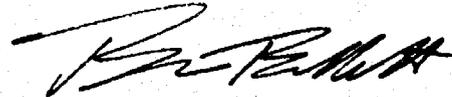
This office has consistently opined that the foregoing constitutional provision, on its face, clearly prohibits the taking of any other office or employment during the elective term, whether or not the legislator resigns. The only exceptions that have been recognized are the educational positions

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excepted in the constitution itself and memberships on advisory or governing boards, which are part time, non-remunerative positions. See e.g., A.R.S. § 41-1821 E. (Az. Pros. Attys. Adv. Council); A.R.S. § 41-2152 G. (Az. Law Enf. Off. Adv. Council).

Please let me know if we can be of further assistance.

Sincerely,



BRUCE E. BABBITT
Attorney General

BEB:rw