

Legislators and Dual Offices

Why can't legislators hold two offices?

The Minnesota Constitution prohibits legislators from holding any other state or federal office except postmaster or notary public.

Legislators are barred from holding another office so that they will not be able to benefit personally from their elected position. Because of the constitutional restriction, a legislator cannot use official influence to be appointed or elected to another position; nor is he or she subject to being influenced in voting by the hope of creating a new position which the legislator would then try to obtain.

What is an office?

“Office,” by case law, includes all elected offices and those appointed positions that have independent authority under law to determine public policy or to make a final decision not subject to a supervisor’s approval. Cases also indicate a conflict may exist between two offices if:

- one office hires, supervises, evaluates, or sets the salary for the other; or
- occupying the two offices is likely to result in occasions where the individual must harm or neglect one position in order to perform duties that are part of the other position.

Could a person serve without pay?

Serving in either position without pay does not eliminate the problem because there is continuing potential for conflict between the duties of the two offices, according to a ruling by the attorney general on the similar issue of compatibility of offices. This reasoning might apply to cases involving legislators and a second office.

Must a legislator resign before seeking another office?

An attorney general’s opinion states that an individual may apply for a job or run for an office that is incompatible with a current position without resigning from the current position. However, upon accepting a position or receiving a certificate of election to an office considered incompatible with the first job or office, an individual is deemed to have resigned from the first position. This reasoning might apply to cases involving legislators and a second office.

For more information: See the House Research publication *Compatibility of Offices* , November 2001.

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