



# The Attorney General of Texas

September 25, 1978

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Honorable E. D. Walker, President  
University of Texas System  
201 West 7th Street  
Austin, Texas 78701

Letter Advisory No. 153

Re: Whether a legislator may  
be on a leave of absence from a  
state-supported university.

Dear President Walker:

You have requested our opinion as to whether a legislator may take a leave of absence as an administrative officer of a state-supported institution. You explain that the Director of Minority Affairs at a state university has received the Democratic nomination for a seat in the House of Representatives for the term beginning in January, 1979. He is unopposed in the general election. You ask whether, under the Texas Constitution, the individual may be deemed on leave of absence, without salary, during his service in the Legislature.

You indicate that an unpaid leave of absence would entitle the individual to return to the same job at the end of the leave. You have informed us that the position would be budgeted by the University and that the individual would be assured of returning to same or higher salary level.

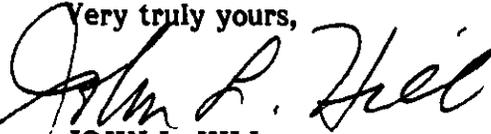
Article 16, section 40 of the Texas Constitution provides in part:

No person shall hold or exercise at the same time, more than one civil office of emolument, . . . . No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

We have previously indicated that this section prohibits a legislator from occupying a paid position at a state college or university, Letter Advisory No. 4 (1973). We believe a person's occupation of a position which assures him of a salaried status at a definite future date constitutes a

position of profit. Accordingly, it is our opinion that an individual employed by a state university is precluded from taking an unpaid leave of absence during the time for which he was elected to serve in the Legislature.

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant  
C. ROBERT HEATH, Chairman  
Opinion Committee

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