

1984 WL 249960 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 14, 1984

\*1 The Honorable Ramon Schwartz, Jr.  
Speaker of the House  
P. O. Box 11867  
Columbia, South Carolina 29211

Dear Speaker Schwartz:

I am in receipt of your recent letter. You have inquired if a special election to fill the House seat for district 97 may be changed to another date. It is my understanding that the nominee for this special election is unopposed and that it is thought preferable to move up the election date to coincide with the Senate primary so that it will spare the cost of holding two elections and enhance voter turnout. It is further my understanding that the candidate is willing to have the election date advanced in that as he is unopposed he does not need as long a time as initially anticipated to campaign.

Under the provisions of [Article III, Section 25 of the South Carolina Constitution](#), you, as the Speaker of the House, have the right to issue a writ of election to fill any vacancy in the House. Therefore, as the discretion lies in your office to set an election, it would appear that you could also change the date of that election if, as now, circumstances have changed to make another date preferable.

It should be cautioned that this opinion cannot be free from doubt in that there does not seem to be a precedent or general law on this subject. However, the legislature always has the power to set election dates and where, as here, there is a reason to change that date, it would seem a reasonable exercise of that power. Additionally, only the House can judge the election and qualification of its members. [Article III, Section II of the South Carolina Constitution](#). Therefore, only the House could decide if the date change was necessary and proper. See also 81A CJS [States](#), §§ 43, 44; 26 Am.Jur.2d [Elections](#), § 226. It should, of course, be weighed in the balance if a change in the election date could possibly lead to voter confusion or disrupt the orderly process of the election.

Sincerely,

Treva G. Ashworth  
Senior Assistant Attorney General

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