

1983 WL 181996 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 8, 1983

*1 The Honorable David S. Taylor
Post Office Box 142
Columbia, South Carolina 29202

Dear Senator Taylor:

Mr. Medlock has referred your letter in which you requested an opinion on behalf of the Laurens County Council to me for reply. Your letter refers to the earlier letter from Mr. Page, the Laurens County Auditor, who raised the following question: [d]oes a county council by local ordinance, have the authority to limit or restrict the number of terms a person may serve on a county board or commission having originated from a state statute?

SOUTH CAROLINA CODE OF LAWS, 1976, Section 4-9-170, provides in part that after January 1, 1980, the county councils . . . shall provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by the general law or the Constitution, but this authority shall not extend to school districts, special purpose districts or other political subdivisions created by the General Assembly.

I assume the county boards or commissions for which you want to enact an ordinance do not fall within the provisions of this statute, *i.e.*, not a school district, special purpose district or other political subdivision created by the General Assembly or a committee whose term is established by the general laws or the Constitution.

If the county council has appointing power over the board or commission it would also have the power to establish the terms of office. In 63 Am. Jur. 2d, Public Officers and Employees, § 146 it is stated that:
. . . where power to make appointments is vested in a subordinate governmental agency, the appointing power, in the absence of any controlling statute or law, may fix the term of the appointee.

See also, [Robertson v. Coughlin](#), 196 Mass. 539, 82 N.E. 678, 679 (1907)

A prior opinion of this Office stated the better procedure may be to abolish the boards that are created by statute and then recreate them by ordinance. When the board is recreated the terms of office could be easily amended. This procedure is certainly not mandated but would, perhaps, provide a clearer procedure for changing these provisions. (Copy of opinion of May 12, 1980, enclosed.)

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

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