

1981 WL 157866 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 14, 1981

\*1 Honorable William W. Doar, Jr.  
Member  
South Carolina Senate  
Post Office Box 142  
Columbia, South Carolina 29202

Dear Senator Doar:

In response to your request for an opinion from this Office regarding the constitutionality of a bill (S-573) which, if enacted, would provide that a vacancy in the office of county sheriff is to be filled by appointment by the Governor 'until the next general election' instead of until the next general election 'for county sheriffs,' my opinion is that it is most probably unconstitutional as violative of the following language of [Article V, Section 20 of the South Carolina Constitution](#):

There shall be elected in each county by the electors thereof a . . . , sheriff, . . . [who shall] serve for terms of four years and until their successors are elected and qualify . . .

Inasmuch as the sheriff's term of office is established by the Constitution at four years, a statute cannot shorten that term of office, including in the case of an incumbent who is appointed to fill out the unexpired term of the sheriff who was originally elected, to wit:

However, . . . , the legislature is without power, directly or indirectly, to extend [or shorten] the term of the incumbent of an elective office where the term is fixed by the constitution. 63 AM.JUR.2d [Public Officers and Employees](#) § 147 at 719.

See also, *id.*, § 155 at 723-4 ('. . . where . . . the duration of the term of an office . . . [is] fixed by constitution . . . , a person elected or appointed to fill a vacancy in such office holds for the unexpired portion of the term, . . .')

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

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