

1977 WL 37277 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 22, 1977

*1 The Honorable Jennings G. McAbee
Member
House of Representatives
McCormick County
Box 246
McCormick, South Carolina 29835

Dear Mr. McAbee:

You have inquired as to the status of the representative upon the Agricultural Commission of South Carolina to serve from the Eleventh Judicial Circuit.

Act No. 1151 of 1968 (68 Acts 2663) creates the Commission and provides staggered terms for its membership. Initial appointments to the Commission were made by the Governor, with the advice and consent of the Senate. These appointees serve terms of varying duration so as to provide for the staggered terms which must be continued. Following the initial appointments, the legislative delegations representing the circuit elect members for terms of four years. Under the statutory scheme, the initial appointment for the Eleventh Circuit comprising Lexington, Edgefield, Saluda and McCormick Counties was made for an initial term of three years. No beginning date for the terms is fixed by the Act. In my opinion, the effective date of the law, May 1, 1968, should be used as the basis for the beginning and ending of all terms in order to insure the continuance of the staggered term formation.

Hugh Clark of Edgefield was designated by the Governor on August 20, 1968, and the term provided for the Eleventh Circuit was three years. Mr. Clark's term therefore expired on May 1, 1971, or three years after the effective date of the Act. Thereafter, Mr. James Childers of Lexington County was elected to serve upon the Commission.

His term began on May 1, 1971, and expired on May 1, 1975. The selection from Lexington County was in accordance with the terms of the statute which require that the first appointment was to be made from the most populous county of the Circuit, which is Lexington County, followed by Edgefield, Saluda and McCormick Counties in order of population. This population system, in my opinion, is required in accordance with the legislative intent as expressed in the statute.

Since May 1, 1975, Mr. Childers is serving as a holdover appointee and it is appropriate that the selection of a successor, if that is to be made, be made from the next most populous county, which is Edgefield County, for a term to expire May 1, 1979. Thereafter, Saluda County would be entitled to the next order of representation on the Commission, followed by McCormick County. The population of the various counties in sequence of population ranks in the same order existing in the 1960 and the 1970 censuses. The counties, by unanimous consent, may depart from a system of rotation among the counties in a circuit.

I advise therefore that, in my opinion, a vacancy exists on the Commission from the Eleventh Judicial Circuit in the sense that it may be filled by election and that unless the counties unanimously consent otherwise, the next selection for a term to expire May 1, 1979, is properly assigned to Edgefield County.

*2 Mr. Bybee of this Office has undertaken the research in this matter, and if I am unavailable, he will be pleased to answer any questions you may have.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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