

1976 WL 30761 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 5, 1976

*1 The term of office of Mr. Thomas W. Long, member of the State Board of Barber Examiners will expire on June 28, 1978.

Isadore E. Lourie
Senator
Richland, Chester and Fairfield Counties

QUESTION PRESENTED:

Can the Governor and General Assembly extend the term of office of Mr. Thomas W. Long, member of the State Board of Barber Examiners, beyond the statutory period?

AUTHORITY:

Article III, § 18; Article IV, § 21, Constitution of the State of South Carolina, 1895, as amended;

Section 56-253, 1962 Code of Laws of South Carolina, as amended; 63 Am Jur 2d, Public Officer and Employees, § 99.

DISCUSSION:

Section 56-253 of the 1962 Code of Laws of South Carolina, as amended, establishes the State Board of Barber Examiners and sets the term of office for the Board's members at four years:

A board to be known as the State Board of Barber Examiners is hereby established, to consist of five members appointed by the Governor with the advice and consent of the Senate for terms of four years and until successors are appointed and qualify.

On June 28, 1974, the Senate confirmed the Governor's appointment of Mr. Thomas W. Long to the Board for a five year term expiring on June 30, 1979.

Section 56-253 clearly states that the members of the Board shall serve terms of four years, and does not authorize the Governor to alter or amend its provisions.

Article III, Section 18 of the Constitution of this State, sets forth the formalities that must be followed before a Bill or Joint Resolution may have the force of law, and Article IV, Section 21 requires that every Bill or Joint Resolution must be signed by the Governor or it must be passed over his veto by a two-thirds vote of each house before it becomes law. Clearly, the five year appointment of Mr. Long by the Governor by and with the advice and consent of the Senate met none of these formalities for creating a new law and as such, the Governor's appointment lacks the force and effect that is necessary to amend Section 56-253. Thus, the Governor's appointment cannot increase the term of office for a member of the Board from four years to five years.

Neither will this miscalculation of dates operate so as to invalidate the entire appointment and render Mr. Long without proper title to his membership on the Board. As a generally accepted principle of law, an appointment in which the length of the term of office is stated to be for a period different from that prescribed by law is held to be an appointment for the legal term. 63 Am Jur 2d, Public Officers and Employees, § 99.

CONCLUSION:

Therefore, based on the above principles of statutory and constitutional interpretation the term of office of Mr. Thomas W. Long on the State Board of Barber Examiners will expire on June 28, 1978, four years from the date of his appointment.

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