

1976 WL 30495 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 20, 1976

*1 Mr. W. Henry Jackson
Beaufort County Auditor
P. O. Drawer 468
Beaufort, South Carolina 29902

Dear Mr. Jackson:

You have requested an opinion from this Office as to the method by which the unexpired term of your office as Beaufort County Auditor is to be filled. As I understand the facts, your term expires on December 31, 1978, but you are planning to resign effective December 31, 1976.

Section 65-1743, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, provides as follows:

[t]he county auditor of Beaufort County shall be elected by the qualified electors of said county in the general election in each even-numbered year other than a presidential election year.

Section 1-121 of the Code provides in part:

Any vacancies which may happen in any of the following offices during the recess of the Senate may be filled by the Governor, who shall report the appointment to the Senate at its next session:

(1) County Auditors;

If the Senate does not advise and consent thereto at such next session, the office shall be vacant.

Act No. 283 of 1975, the 'home rule' legislation, contains no provision that I can find that would alter the method as hereinabove outlined. Cf., § 14-3706, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). My opinion is, therefore, that, upon the effective date of your resignation, the Governor will appoint a successor for the remainder of your term subject to the Senate's subsequent confirmation. The provisions of Section 65-1750 of the Code will not apply since, as I understand the facts, your chief clerk will be leaving with you.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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