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The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES M. CONDON  
ATTORNEY GENERAL

May 4, 2000

The Honorable Edie Rodgers  
Member, House of Representatives  
326-B Blatt Building  
Columbia, South Carolina 29211

**RE: Informal Opinion**

Dear Representative Rodgers:

You opinion request has been forwarded to me for reply. You have informed this Office that in 1994, the Beaufort County Election Commission and the Beaufort County Registration Board were merged into a single entity named the Beaufort County Board of Elections and Registration. Some of the members presently serving on the Beaufort County Board of Elections and Registration served several years on these two previous boards prior to the merger. You have asked whether this prior service is counted in the term limit placed on members by Act No. 583 of 1994.

Act No. 583 of 1994 provides in pertinent part as follows:

**Board Created**

Section 1. (A) There is created the Beaufort County Board of Elections and Registration. There are nine members of the board who must be appointed by the Governor, four of whom must be appointed upon the recommendation of the Senators representing Beaufort County and the remaining upon the recommendation of a majority of the Beaufort County Legislative Delegation for terms of four years until their successors are appointed and qualify except that of those first appointed, five must be appointed for initial terms of two years each, the initial terms of all members to be designated by the appointing authority. A member of the board may not serve more than two consecutive four year terms or eight consecutive years, whichever is longer. (emphasis added).

...

### **Commission and board abolished**

Section 2. The Beaufort County Election Commission and the Beaufort County Registration Board are abolished on the effective date of this act and the powers and duties of the commissioners of Election and the Registration Board are devolved upon the new Board of Elections and Registration created by Section 1 of this act.

### **Current members**

Section 3. The current members of the Beaufort County Election Commission and the Beaufort County Registration Board shall act as the governing body of the new Beaufort County Board of Elections and Registration established pursuant to the provisions of this act until such time as the nine members of this board appointed in the manner provided by this act take office. At this time, the terms of these former commissioners of election and registration board members expire.

In an opinion dated June 18, 1981, this Office addressed a question similar to the one raised in your request. In that situation, the General Assembly enacted legislation which limited the terms of office of members of the Dairy Commission to two consecutive terms. We were asked whether the legislation's limitation on consecutive terms would be applied retrospectively or prospectively. In other words, whether past terms of currently serving members would be considered in the consecutive term limitation or whether such members would be permitted to serve two consecutive terms from the effective date of the statute. Attorney General McLeod concluded:

Based on the general rule that statutes are intended to operate prospectively unless a different result is expressed or clearly implied, and in the absence of recognized exception to the general rule, it is my opinion that statutes relating to remedies or modes of procedure may be given retroactive application as long as they do not create new rights or take away vested rights. Consequently, any terms served before the effective date of the statute should be disregarded in the application of the new amendment to the law, and they would be eligible for reappointment for at least two consecutive terms. ...

In this case, Act No. 583 abolished the two prior boards and devolved their power upon the newly created board. Section 3 specifies that the members of the two abolished

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boards were to act as the governing body of the newly created board until such time as the nine members of the new board were appointed in the manner provided by the Act. Once these appointments occurred, the terms of the former commissioners of election and registration expired. The June 18, 1981 opinion seems especially appropriate in this situation as individuals were appointed to a newly created board and the Act specifies that members of the new board may not serve more than two consecutive four year terms or eight consecutive years, whichever is longer. Therefore, in accordance with Attorney General McLeod's opinion, prior service on the Beaufort County Election Commission and the Beaufort County Registration Board should not be counted when computing the consecutive term limitations placed on members of the Beaufort County Board of Elections and Registration.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With best personal regards, I am

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Paul M. Koch". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Paul M. Koch  
Assistant Attorney General