



7041 *Liberty*

The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

November 22, 2000

The Honorable Larry K. Grooms  
Senator, District No. 37  
131 Indian Field Drive  
Bonneau Beach, SC 29431

Dear Senator Grooms:

You have requested an opinion of this Office concerning the term of the Colleton County Sheriff. According to your opinion request, the previous sheriff resigned from office in December of 1999 to take another law enforcement position. His term would have ended in January of 2001. Pursuant to South Carolina Code Ann. § 23-11-40(A), the Governor appointed the chief deputy "as Sheriff of Colleton County *until the next general election for county sheriffs and until his successor shall be elected and qualify.*" (Emphasis added.) In November, the Governor's appointee ran and was defeated in the general election. You now ask whether the newly elected sheriff may begin to serve in office immediately or must wait until the first Tuesday in January.

South Carolina Code Ann. § 4-11-10 states that the time for commencement of terms of most county officers begins the first Tuesday in January after their election. However, the general law contains more specific provisions regarding the election and qualification of a county sheriff. Notably, S.C. Code Ann. § 23-11-40 governs the filling of vacancies in the office of the sheriff. As a matter of statutory interpretation, specific laws usually prevail over general laws. Lloyd v. Lloyd, 295 S.C. 55, 367 S.E.2d 153 (1988). The special statute will be considered as an exception to or qualification of the general statute and will be given effect. Wilder v. S.C. State Highway Dept., 228 S.C. 448, 90 S.E.2d 635 (1956). Thus, the specific provisions of § 23-11-40 for filling the vacated office of the sheriff prevail over the general language of § 4-11-10 on the commencement of terms for county officers.

*request letter*

The controlling statute, § 23-11-40, provides in relevant part:

(A) If any vacancy occurs in the office of sheriff in any county of this State less than one year prior to the next general election for county sheriffs, the Governor may appoint some suitable person who must be an elector of the county and who, upon qualifying, according to law, is entitled to enter upon and ***hold the office until a sheriff is elected and qualifies in the election*** and is subject to all the duties and liabilities incident to the officer during the term of his service in the office.

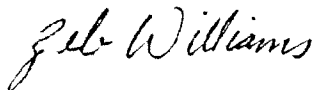
(B) If any vacancy occurs in the office more than one year prior to the next general election for county sheriffs, the Governor shall appoint some suitable person as provided in subsection (A) until a special election is held to elect a sheriff to ***hold the office until a sheriff is elected and qualifies in the next general election*** for county sheriffs. (Emphasis added.)

Reading the provisions of § 23-11-40 together, a vacancy may be filled by an appointee of the Governor serving either until the next general election for sheriff (subsection A) or until the next special election for sheriff (subsection B). In both instances the interim appointee serves until the replacement sheriff is "elected and qualifies." Thus, the statute clearly contemplates filling a vacancy by the election and qualification of the new sheriff.

As with most county officers, a newly elected sheriff would not ordinarily commence his term of office immediately after the November election. However, in the case of a vacated office, the General Assembly expedites the commencement of the term of the newly elected sheriff by the provisions of § 23-11-40. Thus, it is our opinion that in this instance the newly elected sheriff would not commence his term in January but would begin his term of office immediately upon election and qualification.

With kind regards, I remain

Very truly yours,



Zeb C. Williams, III  
Deputy Attorney General

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