

The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

September 9, 1996

Mr. J. W. Wall, Jr.  
Chairman, Allendale County Council  
Post Office Box 677  
Allendale, South Carolina 29810

Re: Informal Opinion

Dear Mr. Wall:

You seek an opinion from this Office regarding the Governor's power to fill, pending the holding of a special election, a vacancy on county council caused by the death of a sitting councilman. This Office has been advised that at the time of his death, there were more than two years remaining on the councilman's term of office.

This Office has previously advised in Op.Atty.Gen. No. 81-42 and Op.Atty.Gen. No. 93-68:

Where there are fewer than one hundred eighty days remaining on the term, the Governor has the authority, pursuant to Sections 4-11-20 and 1-3-220, to fill the vacancy for the reason that it is then being filled by the Governor until the next general election, in precise accordance with the wording of the statutes to which reference is made.

Should more than one hundred eighty days remain on the term, a special election must be ordered to fill the vacancy for the unexpired term and I do not think that the Governor has the authority under the cited statutes to fill the vacancy pending the holding of the special election. . . .

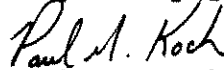
In accordance with the prior opinions of this Office, since there were more than one hundred eighty days remaining on the deceased councilman's term, we would advise that the Governor would not appoint someone to fill the vacancy until the special election could be held.

Mr. J. W. Wall, Jr.  
September 9, 1996  
Page Two

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 question asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kindest regards, I remain

Very truly yours,



Paul M. Koch  
Assistant Attorney General

PMK/vls