

# The State of South Carolina



## Office of the Attorney General

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October 7, 1991

The Honorable Richard R. Thomas  
Chairman, Orangeburg County  
Election Commission  
Post Office Box 9000  
Orangeburg, South Carolina 29116-9000

Dear Mr. Thomas:

By your letter of October 3, 1991, you have advised that two special elections will be held in the near future to fill two vacancies in the South Carolina House of Representatives from Orangeburg County. The election for House District 94 has been ordered to be held on Tuesday, December 31, 1991; the election for House District 95, on Tuesday, January 28, 1992. You have asked whether S. C. Code Ann. § 7-13-190(d) (1976) would require that both elections be held on the later of the two dates. You also inquired about combining the primaries for these two elections.

Section 7-13-190 sets a timetable for special elections to fill a vacancy in a public office caused by the death, resignation, or removal of a public officer when the vacancy is one which would be filled by a special election. Part (d) provides:

Provided, however, if a vacancy occurs in more than one office in the same county requiring separate special elections to be held within a period of twenty-eight days under the provisions of this section, the election commission or other authority responsible for the conduct of the elections shall conduct all of the elections on the same date. The special elections must be held on the latest date required for an election during the twenty-eight day period.

The language which must be construed to resolve your question is "within a period of twenty-eight days."

The Honorable Richard R. Thomas  
Page 2  
October 7, 1991

The general rule is stated in 86 C.J.S. Time § 13(1) that "the time within which an act is to be done is to be computed by excluding the first day and including the last, that is, the day on which the act is to be done ... ." Moreover, "it is generally recognized that the word 'within' may fix the terminus ad quem, but not the terminus a quo, that is, it embraces the last day covered by the limit ... ." Id. at § 13(7). The term "terminus a quo" refers to the starting point and "terminus ad quem," to the ending point. Black's Law Dictionary 1319 (5th Ed. 1979).

Applying this general rule to the situation you have posed, the first day (December 31, the date of the first election) would be excluded in the counting of days, while the final day (January 28, the date of the second election) would be included. Thus, the days from January 1 to January 28 inclusive, would be counted, yielding a total of twenty-eight days.

Based on the foregoing, it therefore appears that the two special elections will be scheduled within a twenty-eight day period. Applying § 7-13-190(d) to this situation, it appears that both special elections should be held on the later of the two dates, or January 28, 1992. As to your question about combining primary elections, we advise that because § 7-13-190(d) is silent as to all but the special election, and further since nomination of candidates is specifically discussed elsewhere, § 7-13-190(d) most probably applies only to the actual special election and not to primaries.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

*Robert D. Cook*

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