

The State of South Carolina



Office of the Attorney General

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October 21, 1992

The Honorable Glenn F. McConnell
Senator, District No. 41
Charleston County Legislative Delegation
Room 307, 2 Courthouse Square
Charleston, South Carolina 29401

Dear Senator McConnell:

By your letter of October 2, 1992, you have advised that the legislative delegations comprising the present First Congressional District have been unable to reach a consensus as to an appointment to fill a vacancy to represent the First District on the South Carolina Coastal Council for a term ending in July 1993. You have asked what would happen if voting is still continuing as of election day, November third: whether the appointment would be made from the current First Congressional District, or from the newly elected First Congressional District.

This Office noted in an opinion dated May 29, 1992 that the newly drawn congressional districts will not be fully operational in all respects until the new members of Congress are elected thereunder.¹ Further, in an opinion dated September 17, 1992, enclosed, this Office suggested that the vacancy on the Coastal Council be filled from the geographic area which presently comprises the First Congressional District, as the member on the Coastal Council representing that District would have represented that geographic area until July 1993 had he not resigned.

¹U. S. Const. art. XX, § 1 provides that terms of office of members of Congress begin on January 3.

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Should the appointment process not be completed by the November third election,² we suggest the following: the individual to be appointed should reside in the presently constituted First Congressional District whenever he may be appointed, for the reasons stated in the opinion of September 17, 1992. The delegations comprising the First Congressional District would remain intact until at least January 3, 1993 when the new members of Congress take office; after new state legislators have assumed office on November 9, certain participants in the appointment process would change but the District's geographic boundaries would not, in our view.³

There is a dearth of judicial authority relative to these issues; thus, the foregoing cannot be free from doubt but represents the most reasonable approach this Office can suggest. It would be most helpful to obtain legislative clarification on these issues so that when reapportionment occurs again, these issues will be more readily resolved.

With kindest regards, I am

Sincerely,



Patricia D. Petway
Assistant Attorney General

PDP/an
Enclosures

REVIEWED AND APPROVED BY:



Robert D. Cook
Executive Assistant for Opinions

²S.C. Const. art. III, § 10 states that terms of office of the state legislators begin on the Monday following the general election, or November 9, 1992.

³See Op. Atty. Gen. dated March 29, 1972, enclosed.