

1984 S.C. Op. Atty. Gen. 194 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-78, 1984 WL 159885

Office of the Attorney General

State of South Carolina

Opinion No. 84-78

July 20, 1984

***1** The Honorable Olin R. Phillips
Member
House of Representatives
Post Office Box 206
Gaffney, South Carolina 29340

Dear Representative Phillips:

By your letter of July 10, 1984, you advised that the Cherokee County Coroner, whose term would expire following the November 1986 election, will be running unopposed for the Cherokee County Council in November 1984 and, if elected, would assume that office in January 1985. You have asked several questions concerning the filling of the vacancy in the office of coroner if and when the individual is elected to council.

The office of coroner is created by Article V, Section 29 of the Constitution of the State of South Carolina, which specifies that the coroner serves a term of four years and until his successor is elected and qualifies. Additionally, [Section 17-5-40 of the Code of Laws of South Carolina \(1976\)](#) specifies a term of four years 'and until his successor shall be elected or appointed and shall qualify.' Filling of a vacancy is provided for in Section 17-5-50: 'In the event of a vacancy in the office of coroner the Governor may fill the office by appointment, as provided in § 4-11-20.'

[Section 4-11-20 of the Code](#) provides the following:

In the event of a vacancy at any time in any of the offices of any county of the State the Governor may appoint some suitable person, who shall be an elector of the county, and, upon duly qualifying according to law, he shall be entitled to enter upon and hold the office to which he has been appointed:

(1) If it be an elective office, until the next general election for such office if the term of such office be fixed by the State Constitution or until the next general election if the term be not so fixed, in which latter case an election shall then be held to fill the unexpired term and in either such event such person shall hold office until his successor qualify;

Any officer so appointed shall be subject to all the duties and liabilities incident to his office during the term of his service therein. Any officer elected to fill an unexpired term under the provisions of this section shall hold office for such term and until his successor shall qualify.

[Section 1-3-220\(2\) of the Code](#) would also require that the Governor appoint someone to fill the vacancy in the office of coroner to serve until the next general election and until the coroner's elected successor shall qualify. Thus, it is clear that the Governor would appoint a successor to serve until the office could be filled in the next general election and until the person duly elected shall qualify. See Op. Atty. Gen. No. 78-19, dated January 30, 1978 (copy enclosed).

Because the vacancy would be filled by appointment, it is unnecessary to address your question as to when an election would be held.

I trust that this information satisfactorily responds to your inquiry. Please advise this Office if we may provide additional assistance in this matter.

Sincerely,

*2 Patricia D. Petway
Assistant Attorney General

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