

1983 S.C. Op. Atty. Gen. 13 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-2, 1983 WL 142673

Office of the Attorney General

State of South Carolina

Opinion No. 83-2

January 26, 1983

*1 The Honorable David S. Taylor
Senator
Laurens and Greenville Counties
Post Office Box 142
Suite 613, Gressette Senate Office Building
Columbia, South Carolina 29202

Dear Senator Taylor:

Thank you for your letter of January 6, 1983, to Karen Henderson, former Deputy Attorney General of this office, requesting an opinion as to whether the election of trustees for School Districts 55 and 56 in Laurens County can be postponed. Mr. Henderson recently entered private practice.

The purpose of the delay in the election would be to allow time for the legislature to pass a law changing the method of selecting the school trustees and for the Justice Department to review the changes. Currently, state law provides that the Laurens County Board of Education appoints the members of the boards of trustees in Districts 55 and 56 unless twelve or more qualified electors in any school attendance area endorse a candidate and request an election. Section 21-3324 of the Code of Laws of South Carolina (1962) (Act No. 6, Acts and Joint Resolutions of South Carolina, 1959). If such a petition is presented by the § 21-3325, as amended the election must be held. *Id.* and § 21-3325, as amended by Act 18 of 1971. I have been advised by a staff member of the Laurens County Board of Education that no such petition has been presented for an election this year, but the deadline for filing has not yet passed. The term of office of the trustees is four years. Section 21-3326.

General law indicates that the legislature may change the term of an office that it created or postpone the date of an election for that office thereby extending the term of the incumbent. 67 C.J.S. Officers § 70; 63 AM.JUR.2d Public Officers and Employees §§ 147 and 148; see also, [Ward v. Waters](#), 184 S.C. 353, 192 S.E. 410 (1937). Here, because the legislature created the offices of the members of the boards of trustees, it should have the authority to postpone an election of new members; however, although we could locate no authority directly on point, we have some concern about the legislature's acting to postpone an election after a proper petition for one has been received. Therefore, we suggest that the legislature act to authorize any desired postponement before a petition is presented. We also suggest that any postponement be limited to a length of time sufficient for consideration of changes in the selection method by the legislature and the Justice Department. The postponement, itself, will probably be subject to Justice Department review.

I will be happy to personally consult with you in formulating legislation if you desire. If we may be of further assistance, please do not hesitate to contact us.

With best regards, I am
Sincerely yours,

T. Travis Medlock
Attorney General

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