

1981 S.C. Op. Atty. Gen. 59 (S.C.A.G.), 1981 S.C. Op. Atty. Gen. No. 81-37, 1981 WL 96563

Office of the Attorney General

State of South Carolina

Opinion No. 81-37

April 14, 1981

*1 Kenneth G. Goode, Esquire
Fairfield County Attorney
Post Office Box 488
Winnsboro, South Carolina 29180

Dear Mr. Goode:

This letter is to confirm our telephone conversation of April 13, 1981. You have informed me that there is a vacancy on the Fairfield County Council due to one member pleading guilty to voluntary manslaughter. You have inquired as to the procedure for holding an election to fill this vacancy.

South Carolina Code of Laws, 1976, Section 4-9-90 provides that if a vacancy occurs one hundred and eighty days or more prior to the next general election, an election must be called.

The time for the election must be set with certain time limits in mind. A political party convention must be advertised in a newspaper for at least three weeks, Section 7-11-30; a political party primary must, likewise, be advertised with sufficient notification for persons to file for office—at least one to two weeks; time must be allotted for campaigning; time has to be allotted for the possibility of a run-off which must be held within two weeks of the first primary, Section 7-17-510, *et seq.*, and, petition candidates, primary candidates, and convention candidates must be certified as candidates thirty days before the election, Section 7-13-350, as amended by 1976 (59) 1702.

As this is a special election to fill a vacancy created by resignation or removal from office, the sixty day notice requirement of Section 7-13-350 would not apply.

The date for the election would, therefore, be approximately three months from the date of announcing the election. If a primary is not held, the time would, of course, be substantially shortened.

Additionally, you have inquired if it would be possible to have a non-partisan election to fill this position. There is no provision for a non-partisan county election.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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