

1981 WL 157976 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 22, 1981

***1 Re: Status of State or County Elected Official's Position When Called for More Than Two Weeks of Active Duty by National Guard**

Mr. Gerald W. Burnett
Deputy Comptroller
Office of the Comptroller General
Wade Hampton Office Building
P. O. Box 11228
Columbia, South Carolina 29211

Dear Mr. Burnett:

All officers of this State or any political subdivision thereof who are members of the South Carolina National Guard or any other reserve unit who are called upon to serve in an emergency shall be entitled to a leave of absence not exceeding thirty additional days, over and above the fifteen days normally allowed for training and exercises. [S. C. Code § 8-7-90](#).

Should the absence of any officer from his office or position caused by his being in the military service exceed forty-five days, it shall not create a forfeiture of or vacancy in the office or position to which such officer was elected but shall be construed merely to create a temporary vacancy. [S. C. Code § 8-7-30](#).

In case a temporary vacancy is created in any office or position by reason of the absence of the officer in the military service the appointive authority shall appoint some person to fill temporarily the office or position to which such officer was elected or appointed. All such appointees shall hold the office of position which they are temporarily to fill during the absence of the officer in the military service or until the expiration of the term for which such officer in the military service was elected or appointed, whichever period of time is the shorter. [S.C. Code § 8-7-40](#).

However, an elected officer who shall be absent from his office or position for more than forty-five days in the military service shall not be entitled to any compensation during his absence. [S. C. Code § 8-7-80](#).

I hope this satisfactorily answers your questions concerning this matter.

Very truly yours,

Richard B. Kale, Jr.
Senior Assistant Attorney General

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