

1981 WL 157957 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 9, 1981

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

Dear Mr. Goode:

Mr. McLeod has referred your recent letter to me for reply. As the Fairfield County Attorney you have requested an opinion as to the procedure for swearing in a new county council member. You have stated that the new county council member was appointed by Governor Riley to fill the position of a member who pled guilty to voluntary manslaughter. You have inquired as to whether or not the interim council member would have to be sworn in again if he should be elected in the special election to the office he now holds by appointment.

Yes. The [South Carolina Constitution at Article VI, Section 4](#) provides that . . . all . . . officers of the State and its political subdivisions, before entering upon the duties of their respective offices, shall take and subscribe the oath of office as prescribed in Section 5 of this article.

[Article VI, Section 5](#) again states that the oath must be taken before an officer begins his duties and then sets out the oath of office.

It is stated in 63 Am.Jur.2d, Public Officers and Employees, § 123 that

[a] public officer who at the end of his term of office is again chosen for the office must generally qualify for his new term by furnishing the required bond, taking an oath of office, or performing whatever other acts may be necessary to qualify him for the position, and his failure to do so is accompanied by the same consequences as in the case of an original election or appointment.

Therefore, it would be necessary for whoever is elected in the special election, even if it is the interim appointed council member, to again take the oath of office before he begins his new term.

You have also inquired how soon after the special election the swearing in should take place. Pursuant to the [Constitution, Article VI, Sections 4 and 5](#), the person should be sworn in before he enters upon the duties of that office. Therefore, after the time for protest has elapsed and upon meeting all other requirements to be a qualified officer, he should be sworn into office in order to begin the new term of that office.

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

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