

1980 WL 120611 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 16, 1980

*1 The Honorable Richard W. Riley
Governor
State of South Carolina
P. O. Box 11450
Columbia, South Carolina 29211

Dear Governor Riley:

You have requested an opinion of this Office as to whether or not two constitutional amendments concerning the succession of the Governor may be submitted to the electorate for a vote. Specifically, you have inquired if it would be possible to have one proposed amendment submitted to the electorate which would authorize the Governor to succeed himself, a second amendment to authorize the amendment to be effective as to the incumbent Governor, and a possible third amendment to authorize the amendment to be effective at some future date.

There is little law in South Carolina governing this question. Obviously, there is no problem presented in submitting the question as to whether or not the Governor should be allowed to succeed himself. However, the propriety of submitting the proposed amendment to establish a date for the implementation of the first amendment is questionable.

If the amendment passes authorizing the Governor to succeed himself, the amendment will automatically go into effect in 1982 at the next election. If a second amendment is submitted inquiring if the electorate desires the amendment to be applicable to the Governor, it will, of course, be redundant as the effective date of the constitutional provision would be 1982, the year of the next gubernatorial election. However, the fact that it is redundant would not alone be sufficient to prohibit submitting the question to the electorate.

A submission to the electorate of an effective date later than 1982 would be a postponement of the date it would normally be effective. There are no South Carolina cases on whether or not a prospective application of a constitutional amendment would be authorized; however, in two Ohio cases, the procedure has been upheld if the electorate knowingly votes for the postponement. [State v. Campbell, 115 N.E. 29](#); [City of Euclid v. Heaton, 238 N.E.2d 790](#).

Problems could arise if the amendment concerning the date of the election is approved and not the actual amendment to authorize succession. However, there is no law which specifically prohibits the submission of amendments to the electorate in this manner. Therefore, it is my opinion that, if the amendments are properly phrased, it would be permissible to submit both the question of succession and the date of implementation to the electorate in two separate amendments.

Yours very truly,

Daniel R. McLeod
Attorney General

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