

1980 S.C. Op. Atty. Gen. 35 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-12, 1980 WL 81896

Office of the Attorney General

State of South Carolina

Opinion No. 80-12

January 29, 1980

\*1 Honorable Joyce C. Hearn  
Member  
House of Representatives  
Richland County  
1316 Berkeley Road  
Columbia, South Carolina 29205

Dear Mrs. Hearn:

Your recent letter inquires as to the correctness of a ruling of the Chairman of the Richland County Council regarding motions made in Council relating to the position of Richland County Attorney. The Chairman, according to information submitted by you, ruled that before the election of the Richland County Attorney could be considered, removal of the incumbent County Attorney should be first considered. Your inquiry is directed as to the correctness of that ruling.

This matter is one to which the County Attorney should be called upon to respond, but as that official is the subject of the question, I have contacted him, and he has interposed no objection to my responding to your inquiry. Ethical considerations, as well as assurances which I have heretofore made to the county attorneys of the State, normally require that matters of a local nature, such as this, should be referred to the county attorney, who could then, should he choose to do so, secure the views of this Office on a given problem if he chooses to undertake this course. In this instance, the County Attorney, however, does not object to my response to the question.

The authorities cited below indicate that the election of an individual to an office is all that is necessary to be given in circumstances such as the one detailed in your letter. Section 14-3221 of the Code of Laws, 1962, was amended in 1971 so as to provide that the County Attorney should hold at the pleasure of the governing body (71 Acts 1081). I am not advised as to whether Richland County has sought to modify or repeal this statute, and that question is not presented by you; but the principal issue as to whether it is necessary to first discharge an incumbent officer before employment of his successor where the officer holds at the pleasure of the appointing authority must be answered in the negative.

Very truly yours,

Daniel R. McLeod  
Attorney General

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