

1979 WL 42870 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 16, 1979

*1 Honorable John Drummond
Senator
District No. 3
State House
Columbia, SC 29211

Dear Senator Drummond:

You have inquired what procedure should be used to replace the supervisor in McCormick County. It is my understanding that the supervisor was suspended upon indictment and that he has now been convicted.

McCormick County is under the county-supervisor form of government. The supervisor is elected at large and serves as the chairman of the county council. Under [Section 8-1-100 of the South Carolina Code](#) of Laws, 1976, the Governor is given the power to suspend a State or county officer who has been indicted and '[i]n the case of conviction the office shall be declared vacant by the Governor and the vacancy filled as provided by law.' [Section 4-9-90 of the South Carolina Code](#) of Laws, 1976, states that

vacancies on the governing body [of a county] shall be filled in the manner of original election for the unexpired terms in the next general election after the vacancy occurs or by special election if the vacancy occurs one hundred eighty days or more prior to the next general election.

It is the opinion of this Office that the county-supervisor is a member of the governing body within the meaning of the above-cited statute, and any vacancy should be filled pursuant to these provisions. South Carolina Code of Laws, 1976, Section 4-11-20 allows the Governor to appoint persons to fill vacancies in any county office. However, [Section 4-9-90](#), which is part of the Home Rule Act, was enacted subsequent to Section 4-11-20. [Section 4-9-90](#) expressly provides for the procedure for replacing a vacancy on the governing body of the county. Therefore, a vacancy in the office of supervisor in a county-supervisor form of government would be filled pursuant to the provisions of [Section 4-9-90](#) and not by appointment.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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