

1980 WL 120767 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 11, 1980

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Attorneys at Law  
The Daniel Building  
Greenville, South Carolina 29602

Dear Mr. Mann:

Mr. McLeod has referred your recent letter to me for reply. You have requested an opinion as to whether or not it would be permissible for the City of Mauldin to extend the time of the elections to comply with a request by the Greenville County Council, that all elections in Greenville County be held on one specific date.

There is no doubt that the authority that creates an office may change the term of that office at any time. 67 CJS Officers § 70; 63 Am. Jur. 2d, Public Officers and Employers § 147. Also it is established general law that the legislature may postpone the date of the election and thereby extend the term of the incumbent. 63 Am. Jur. 2d Public Officers and Employers § 148.

The only question is if the City of Mauldin, itself, would have the power to extend the terms. Apparently, they would.

[Article VIII, Section 9 of the South Carolina Constitution](#) states in part that ‘[t]he structure and organization, powers, duties, functions, and responsibilities of the municipalities shall be established by general law . . .’ South Carolina Code of Laws, 1976, as amended, Section 5-15-50 authorizes each municipal government to establish by ordinance the time for general and special elections within the municipality. It is apparent that the Legislature has delegated this specific power to the municipalities and that under the new Home Rule Provisions the municipalities would now be the only body that could change the term of office. cf. [Dunbar v. Spartanburg](#), 266 S.C. 113, 221 S.E. 2d 848 (1976).

Therefore, the City of Mauldin could change the date of their municipal election in order to comply with the request of the Greenville County Council that all elections within Greenville County be held on a uniform date.

Very truly yours,

Treva G. Ashworth  
Senior Assistant Attorney General

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