

1980 WL 121069 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 11, 1980

*1 Ms. Dorothy A. Manigault
Executive Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Dot:

Mr. McLeod has referred your recent letter to me for reply. You have stated that on May 1, 1980, Governor Riley declared Chesterfield County Council Seat Number Two vacant and that as of this date a special election has not been held. You have inquired if the required special election to fill the vacancy can be held concurrently with the general election or if a special election must be held prior to the general election.

South Carolina Code of Laws, 1976, Section 4-9-90 provides that if a vacancy occurs one hundred and eighty days or more prior to the next general election, an election must be called. Therefore, an election should be immediately called. However, it should be pointed out that it is quite possible at this late date that the timing of this election, called sometime in the middle of July, would result in this special election being conducted at the same time as the general election.

I base that statement on the following reasons. The time for the election must be set with certain time limits in mind. A political party convention must be advertised in a newspaper for at least three weeks, Section 7-11-30; a political party primary must, likewise, be advertised with sufficient notification for persons to file for office—at least one to two weeks; time must be allotted for campaigning; time has to be allotted for the possibility of a run-off which must be held within two weeks of the first primary, Section 7-17-510, *et seq.*; and, petition candidates, primary candidates, and convention candidates must be certified as candidates thirty days before the election, Section 7-13-350, as amended by 1976 (59) 1702.

The date for the election would, therefore, be approximately three months from the date of announcing the election. If a primary is not held, the time would, of course, be substantially shortened.

Therefore, depending on the election procedure utilized, it is quite probable that the election cannot be held before November. If that should happen there is no reason why the two elections could not be held on the same day.

Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

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