1977 S.C. Op. Atty. Gen. 104 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-121, 1977 WL 24463

Office of the Attorney General

State of South Carolina
Opinion No. 77-121
April 27, 1977

*1 Honorable H. Ray Ham
Representative
District No. 88
3180 Buckeye Drive
West Columbia, SC 29169

Dear Representative Ham:

Mr. McLeod has referred your recent letter to me for reply. You have stated that Mr. Harmon, the Lexington County Superintendent of Education, passed away after being elected to a term of office to begin July 1, 1977, and that thereafter a person was appointed to replace Mr. Harmon until a special election could be conducted. You have requested an opinion as to whether or not the special election can be delayed for a period of up to one (1) year by statute.

The election and term of office for the county superintendent of education is established by statute. See S. C. Code of Laws, 1962, as amended, Section 21–61. 63 Am.Jur.2d <u>Public Officers and Employees</u>, § 147 states that 'there is no doubt of the power of the legislature which creates an office, to abolish it or to change it, and the legislature may shorten or lengthen the term of the office itself, in the absence of constitutional inhibition.' Section 148 states that 'postponement of an election by the legislature does not fly in the face of the constitution so long as the postponement is reasonable and does not destroy the elective character of the office affected.' Therefore, when the legislature has established a term of office, it may change the term of office or postpone the election in the interest of the public policy. <u>Board of Elections v. State ex. rel. Schneider, 97 A.L.R. 1417.</u> See also <u>Anno.—Term of Office-Extension, 97 A.L.R. 1428; Walpole v. Wall, County Supt., 153 S.C. 106, 117, 150 S.E. 760 (1929).</u>
 Very truly yours,

Treva G. Ashworth
Assistant Attorney General

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