

1978 WL 34901 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 5, 1978

\*1 Mr. Roger W. Mudd  
Director  
Soils and Resource Development  
Land Resources Conservation Commission  
2221 Devine Street, Suite 222  
Columbia, S.C. 29205

Dear Mr. Mudd:

You have recently asked the opinion of this office concerning the eligibility of an inaugural member of the Advisory Council to the State Board of Soil Classifiers, now sitting on the Council, to be reappointed to succeed himself for a full five-year term.

The procedure for the establishment of the advisory council is set forth in [Section 40-65-20 of the S.C. Code](#) of Laws (1976). This section provides that the four (4) members, other than the chief soil scientist of the State Board, shall be appointed to terms ‘ . . . for five years and until their successors have been appointed and qualify . . . ’ Provision is also made for the setting of the terms according to a scheme which results in one term expiring on June 30 of each year.

The authorities on the subject of a public official succeeding himself are scant, however, 63 Am. Jur. 2d, [Public Officers](#), Section 160 speaks to the problem and explains that the effect of a provision in a statute authorizing a public officer to hold over ‘ . . . is to add an additional contingent and defeasible term to the original fixed term, and to prevent the happening of vacancies in office except by death, resignation, removal, or the like. ’

Even though Section 160 does not speak directly to the issue at hand, it can be concluded on the basis of it that the General Assembly in providing for holding over by council members intended that there should be no lapse in experienced leadership and service on the advisory council. Considering this fact together with Section 40-65-60 which states that only two regular meetings per year are necessary, leads to the conclusion that the legislature did not intend to prohibit the first set of advisory council members from succeeding themselves to serve a full five-year term. To interpret and apply the statute otherwise would potentially result in individuals possessing strong qualifications in this field (Section 40-65-30 sets a minimum of ten years in active practice) being allowed to participate on the council for as few as two or four meetings.

Therefore, it is the opinion of this Office that there is no prohibition against a council member succeeding himself in office and the four members, appointed to the first set of terms on the Advisory Council are eligible to succeed themselves through an appointment to a full five-year term.

Sincerely,

Reddick A. Bowman, Jr.  
Assistant Attorney General

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