

1975 S.C. Op. Atty. Gen. 143 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4064, 1975 WL 22361

Office of the Attorney General

State of South Carolina

Opinion No. 4064

July 30, 1975

*1 The Honorable James B. Edwards

Governor

State of South Carolina

Post Office Box 11450

Columbia, South Carolina 29211

Dear Governor Edwards:

You have requested my opinion as to whether or not you may make recess, or interim, appointments to the recently created State Ethics Commission (Commission), subject to the advice and consent of the General Assembly when it next convenes.

The Commission is created by the 1975 Ethics Act, which you approved on May 29, 1975. The General Assembly provided in Section 31 that the Act take effect on approval, although it is further provided in Section 30 that 'no requirements of this act which require filings of statements with the State Ethics Commission shall be effective until sixty days following the appointment of the Commission.'

Section 3 of the Act provides that the members of the Commission shall be appointed by the Governor, upon the advice and consent of the General Assembly. The Act makes no provision, nor does any other statute, for recess, or interim, appointments by the Governor to this Commission, either for the original appointments, or in the case of vacancies that might develop in the future.

In contrast, I refer you to Section 1-121, Code of Laws of South Carolina, 1962, as amended, which authorizes the Governor to fill vacancies which may happen in certain other offices and public bodies specified therein during the recess of the Senate, subject to the Senate's advice and consent when it next convenes.

There appears to be no statutory or constitutional authority that would support the appointments in question without the advice and consent of the General Assembly. Accordingly, it is my opinion that no recess, or interim, appointments can be made to the newly created State Ethics Commission.

Very truly yours,

Daniel R. McLeod

Attorney General

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