

1975 WL 29209 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 26, 1975

*1 Any vacancy occurring in the Office of the Auditor, Edgefield County, could be filled by appointment of the Governor until a successor could be chosen for the balance of the unexpired term in the next general election.

TO: County Administrator
Edgefield County

QUESTION PRESENTED:

How would a vacancy in the Office of the Auditor, Edgefield County, be filled?

AUTHORITIES CITED:

Act No. 1008 (Acts and Joint Resolutions—1968);

Act No. 1317 (Acts and Joint Resolutions—1968);

§ 65-1745.01 CODE OF LAWS OF SOUTH CAROLINA;

§ 14-302 CODE OF LAWS OF SOUTH CAROLINA.

DISCUSSION:

Act No. 1008 (Acts and Joint Resolutions—1968) provided for the election of an Auditor in Edgefield County to serve a term of four years with the first election to be held in the general election of 1968. This Act was amended by Act No. 1317 (Acts and Joint Resolutions—1968) to read in part as follows:

‘The Auditor of Edgefield County shall be elected by the qualified electors of the county in the general election to be held in 1970 and every four years thereafter.’

The above cited Acts have been codified as § 65-1745.01 of the CODE OF LAWS OF SOUTH CAROLINA.

Under the provisions of Act No. 1008, as amended by Act No. 1317, the first election for Auditor in Edgefield was scheduled to be held in the general election of 1970 with the next election to be held in 1974. No election is now scheduled until the general election of 1978.

Should a vacancy in the Office of the Auditor in Edgefield County now occur the vacancy could be filled by appointment of the Governor under provisions of § 14-302 of the CODE OF LAWS OF SOUTH CAROLINA. This section provides in part:

‘In the event of a vacancy at any time in any of the Offices of any county of the state the Governor may appoint some suitable person, who shall be an elector of the County, and, upon duly qualifying according to law, he shall be entitled to enter upon and hold the office to which he has been appointed:

(1) If it be an elective office, until the next general election for such office if the term of such office be fixed by the State Constitution or until the next general election if the terms be not so fixed, in which latter case an election shall then be held to fill the unexpired term and in either such event such person shall hold office until his successor shall qualify.'

Inasmuch as the term of the Auditor in Edgefield County is set by statute and not by constitutional provision, the Governor could appoint an Auditor to serve only until the general election of 1976 when a successor would be chosen for the balance of the unexpired term.

CONCLUSION:

Any vacancy occurring in the Office of the Auditor of Edgefield County could be filled by appointment of the Governor until the next general election. At the next general election a successor would be chosen for the balance of the unexpired term.

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