

1974 S.C. Op. Atty. Gen. 155 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3779, 1974 WL 21291

Office of the Attorney General

State of South Carolina

Opinion No. 3779

May 15, 1974

***1 The Speaker of the House of Representatives has constitutional authority, as incorporated in Section 23–2(2), to use his discretion in fixing a special election date to fill a vacancy in the House of Representatives.**

Speaker

House of Representatives

You have inquired as to the procedures for calling an election to fill a vacancy which may exist in the House of Representatives, with specific reference to time limitations for various election procedures as may be applicable.

By letter dated March 14, 1967, I advised the former Speaker of the House, Honorable Solomon Blatt, that the election which you are authorized to order in such contingencies is a special election, ordered pursuant to constitutional authority, which is not subject to the laws relating to general and special elections as incorporated in Title 23 of the Code of Laws for South Carolina. The law has not changed in this respect since the date of that opinion and the General Assembly has not enacted statutory provisions concerning the conduct of elections to fill vacancies in the General Assembly.

In the absence of such legislation, it is my opinion that the election may be fixed by you at such date as you may determine. I suggest that a period sixty days hence is appropriate. This would allow a twenty-day period for certification of candidates, leaving a forty-day period for nominating procedures by primary, convention, or petition. If an earlier election is desired, it is my opinion that you may fix in your order of election a time for the certification of candidates at less than the twenty-day interval.

While the requirements of the election laws are not considered by me to be applicable to this election, it is my opinion that they should be followed by the political parties and candidates to the extent they may be made applicable. Primaries, for example, may be ordered by political parties with shortened intervals for entry of candidates, as well as between first and second primaries.

I therefore advise that, in my opinion, you are vested with constitutional discretion to fix the date of election and that a sixty-day period is ample so as to allow compliance with existing statutory provisions with compression of time limitations as political parties may desire.

Article III, Section 25, Constitution of South Carolina Section 23–2(2), Code of Laws for South Carolina, 1962

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