

June 5, 2008

The Honorable Walton J. McLeod  
Member, House of Representatives  
P. O. Box 11867  
Columbia, South Carolina 29211

Dear Representative McLeod:

In a letter to this office you referenced that Mr. Tommy Hedgepath, the unopposed Republican nominee for Coroner of Newberry County, died on Friday, May 30, 2008. Mr. Hedgepath was the unopposed candidate in the ensuing November, 2008 general election because there were no other candidates for this office from any other party. You have questioned the correct nominating and election procedure to be utilized in these circumstances.

S.C. Code Ann. § 7-11-90 states that

[a]fter the closing of entries if any candidates shall be unopposed, the State committee in the case of State offices and the county committees in the case of county offices shall declare such unopposed candidates as party nominees, and the names of unopposed candidates shall not be placed upon the primary election ballots but shall be certified for the general election ballots. (emphasis added).

Consistent with Section 7-11-90, inasmuch as Mr. Hedgepath was the only candidate for the office of Newberry County Coroner as no other candidates filed for that office, he should have been considered the Republican party nominee and his name would not have been placed upon the primary election ballot.

Inasmuch as Mr. Hedgepath, the party nominee, died, the provisions of Section 7-11-55 then become relevant to the situation. That provision states that

If a party nominee dies, becomes disqualified after his nomination, or resigns his candidacy for a legitimate nonpolitical reason as defined in Section 7-11-50 and was selected through a party primary election, the vacancy must be filled in a special primary election to be conducted as provided in this section. The filing period for this special primary election opens the second Tuesday after the death, disqualification, or approval of the resignation for one week. The special primary election then must be conducted on the second Tuesday immediately following the close of the filing period. A runoff, if necessary, must be held two weeks after the first primary. The

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nomination must be certified not less than two weeks before the date of the general election. If the nomination is certified two weeks or more before the date of the general election, that office is to be filled at the general election.

If the nomination is certified less than two weeks before the date of the general election, that office must not be filled at the general election but must be filled in a special election to be held on the second Tuesday in the month following the election, provided that the date of the special election to be conducted after the general election may be combined with other necessary elections scheduled to occur within a twenty-eight day period in the manner authorized by § 7-13-190(D).

The procedures for resigning a candidacy under this section for legitimate nonpolitical reasons are the same as provided in § 7-11-50.

Where the party nominee was unopposed, each political party registered with the State Election Commission has the privilege of nominating a candidate for the office involved through a special primary election in the same manner and under the same procedures stipulated by this section. (emphasis added).

Inasmuch as Mr. Hedgepath was unopposed, Section 7-11-90 mandates that he became the “party nominee” and that his name not be placed upon the primary election ballot. Therefore, in the opinion of this office, it would appear that Section 7-11-55 is applicable, the “party nominee” having died and having been selected through the party primary process, and thus, each political party registered with the State Election Commission may nominate a candidate for the office of coroner through a special primary election as set forth in that provision. It is our understanding that the State Election Commission is of the same opinion as expressed herein.

If there are any questions, please advise.

Sincerely,

Henry McMaster  
Attorney General

By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:

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Robert D. Cook  
Deputy Attorney General

cc: The Honorable Ronnie W. Cromer