

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

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November 30, 1989

William B. Harvey, III, Esquire
Attorney, City of Beaufort
Harvey & Battey, P.A.
1001 Craven Street
Post Office Drawer 1107
Beaufort, South Carolina 29901-1107

Dear Mr. Harvey:

Attorney General Medlock has referred your recent letter to me for reply. You have stated that the City of Beaufort would like to change the date council members assume office following their election on the first Tuesday in May to the second Tuesday in May. Presently the elected members assume office on the first Tuesday in July. As the city attorney, you have requested an opinion on behalf of the Council as to whether the implementation of this change will impermissibly shorten the elected term of incumbents. You have enclosed a copy of an opinion you have authored which concludes that it would not.

On July 11, 1980, this Office issued an opinion on a similar question regarding whether a city could extend the time of an election which would thereby extend the term of the elected official's office. It was our conclusion at that time that the city had the general authority under home rule to change the term of office and that general law allows the authority who created an office to change the terms of that office at anytime. 67 C.J.S., Officers §70; 63A Am.Jur.2d, Public Officers and Employees, §156.

The reasoning of this opinion would be equally applicable to the shortening of a term of office in that the city would have the general authority to implement the change. A copy of the 1980 opinion is enclosed.

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It should be noted that if this change is passed, it must receive Justice Department preclearance before it can be implemented.


Very truly yours,




Treva G. Ashworth
Senior Assistant Attorney General

TGA:bvc
Enclosure

REVIEWED AND APPROVED BY:



EDWIN E. EVANS
Chief Deputy Attorney General



ROBERT D. COOK
Executive Assistant for Opinions