

1980 WL 120951 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 28, 1980

\*1 Mr. Thomas O. Lawton, Jr.  
Attorney at Law  
Post Office Box 646  
Allendale, South Carolina 29810

Dear Mr. Lawton:

I am in receipt of your recent letter. You have stated that a member of the Allendale County School Board recently resigned. This resignation came too late for the office to be filled during the November general election. You have stated that you have informed the School Board that a special election should be held but that Representative Brandt has received an opinion from Emory Smith of this Office that the Governor would fill the position. You have requested clarification of this situation.

I have talked to Emory Smith, and we are in agreement that both of your positions are correct. South Carolina Code of Laws, 1976, Section 4-11-20 provides that the Governor can appoint a person to fill a vacancy for 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 term 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 . . .

Under this provision and Section 1-3-220(2), the Governor would have the power to appoint a person to fill the vacancy until the next general election. This appointee would hold office until his successor qualifies. Therefore, assuming the Governor appoints someone before the November 4 general election, the person appointed now to fill the vacancy will hold to the general election and until his successor is elected and qualified in a special election.

Very truly yours,

Treva G. Ashworth  
Senior Assistant Attorney General

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