

1978 WL 35102 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 7, 1978

*1 Clinch Heyward Belser
Chairman
Richland County Election Commission
P. O. Box 4069
Columbia, SC 29240

Dear Mr. Belser:

This letter is to confirm our telephone conversation of today regarding my letter dated August 25, 1978, and addressed to you. From my conversation with you and Mr. Shissias of the Richland County Republican Party, it appears that all of the substitutions of candidates in the two offices with which we are concerned occurred while there was still sufficient time for a primary.

It is the opinion of this Office that South Carolina Code of Laws, 1976, Section 7-11-50 as amended by R472 of 1978 is not applicable to withdrawals of candidacy by a party nominee if sufficient time remains to hold a convention or primary to fill the vacancy or to nominate a nominee to enter a special election. When sufficient time does not remain to hold a primary or convention, the respective State or party executive committee may nominate nominees for the office.

This is in accordance with the precise provisions of the statute which uses the two conditions conjunctively that is, before the provisions of the statute apply there must be the death, disqualification or withdrawal of a candidate and insufficient time must remain to hold a convention or primary to fill the vacancy.

If a person seeks to withdraw his candidacy prior to thirty (30) days before the election and sufficient time remains for a new primary to select a new nominee, there is no statutory guidelines for the proper procedure.

Very truly yours,

Treva G. Ashworth
Assistant Attorney General

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