

1975 S.C. Op. Atty. Gen. 234 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4180, 1975 WL 22475

Office of the Attorney General

State of South Carolina

Opinion No. 4180

November 14, 1975

*1 Honorable James B. Edwards

Governor

State House

P. O. Box 11450

Columbia, South Carolina 29211

Dear Governor Edwards:

You have inquired as to the power of your Office to fill vacancies on County Boards of Registration and the terms any person appointed to fill such vacancies would serve.

Under provisions of § 23–51 of the CODE OF LAWS OF SOUTH CAROLINA the Governor is empowered to appoint, by and with the advice and consent of the Senate, not less than three nor more than five competent and discreet persons in each county to serve on the County Board of Registration. Such appointments shall be made between the first day of January and the fifteenth day of March in every even-numbered year.

The authority of the Governor to fill vacancies on the Board is set forth by § 23–52 of the CODE which provides in part: ‘An case of a vacancy from any cause in any board of registration the Governor shall fill such vacancy in the same manner as provided in § 23–51.’

Thus, appointment of fill a vacancy would ordinarily require the advice and consent of the Senate in the same manner as required for full term appointments. However, when the General Assembly is not in session, filling a vacancy with the advice and consent of the Senate is impossible.

Provisions are made by § 14–302 of the CODE for filling vacancies in county offices, including both elective and appointive offices. In pertinent part, § 14–302 provides as follows:

‘In the event of a vacancy at any time in any of the Offices of any county of the State the Governor may appoint some suitable person, who shall be an elector of the County, and, upon duly qualifying according to law, he shall be entitled to enter upon and hold the Office to which he has been appointed:

(2) If it be an Office which was filled originally by appointment, until the adjournment of the General Assembly at the regular session next after such appointment.’

As the General Assembly is not in session and the vacancies on the County Boards of Registration cannot be filled in this manner provided by §§ 23–51 and 23–52, I am of the opinion that you have authority to fill vacancies on County Boards of Registration under § 14–302 with the terms of your appointees to extend until the adjournment of the General Assembly at its next regular session. Appointments by you to fill vacancies would cease to be of force should the Senate fail to confirm them prior to adjournment of the next regular session of the General Assembly. [State v. Bowden, 92 S.C. 393, 75 S.E. 866 \(1912\).](#)

Sincerely,

Daniel R. McLeod
Attorney General

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