

1974 WL 27186 (S.C.A.G.)  
Office of the Attorney General  
State of South Carolina  
April 19, 1974

**\*1 RE: Proposed Bill to Fill a Vacancy on the County Council of Florence County**

The Honorable Ralph K. Anderson, Jr.  
Member  
House of Representatives  
Florence County  
Box 468  
Florence, South Carolina 29501

Dear Ralph:

Thank you for your letter of April 5, to which I have just now had an opportunity to respond.

You request my opinion as to the constitutionality of the above Bill which has for its stated purpose:  
'To provide for an election to fill a vacancy on the County Council of Florence County.'

Your inquiry is directed at the possible application of Article VIII of the new Constitution, specifically Section 7 thereof, which provides, in part:

'No laws for a specific county shall be enacted—.'

The Bill amends organic acts creating the County Council for Florence County enacted in 1966 and in 1968. The 1968 Act provides for terms of office of members of the County Council of four years each. Vacancies on the County Council occurring before the expiration of a term 'shall be filled for the unexpired portion of the term by the same method as provided for the original holder of the office.'

I do not know the factual situation, what portion of any expired term may be left, or the beginning and ending dates of the term in which the vacancy exists, but I assume that the Bill constitutes a departure from the statutory scheme; otherwise, its enactment would have been needless. On the basis of this assumption, it is my opinion that the Bill, if enacted, is subject to constitutional doubt. If a categorical answer should be required, I would state that such an Act would most probably be unconstitutional.

The meaning to be given to the new constitutional article is uncertain. A case is now before the Supreme Court of South Carolina which may afford some criteria for expressing a judgment as to the meaning and application of the new constitutional provision, but until some judicial precedents are established, such judgments are, to some extent, necessarily speculative. For these reasons, an opinion cannot be expressed in this matter with any great degree of confidence as to its correctness. Therefore, the views expressed herein are issued with emphasized reservation.

With best wishes,  
Very truly yours,

Daniel R. McLeod

Attorney General

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