

1974 S.C. Op. Atty. Gen. 173 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3793, 1974 WL 22435

Office of the Attorney General

State of South Carolina

Opinion No. 3793

June 5, 1974

*1 Section 23–396 referring to entry of new senatorial candidates if one withdraws or dies should be read to encompass candidates for seats in the House of Representatives as well as the Senate.

Research Director
S.C. Republican Party

Thank you for your letter of May 28, 1974. You have requested an opinion as to whether or not the provisions of South Carolina Code of Laws, 1962, as amended, Section 23–396 which refers to entry of new senatorial candidates if one candidate has withdrawn would apply to candidates for the House of Representatives. The pertinent provisions of this statute state

If, after the closing of the time for filing pledges, there be not more than two candidates for any one office and one or more of such candidates dies or withdraws, the State or county committee, as the case may be, may, in its discretion, afford opportunity for the entry of other candidates for the office involved; provided, that for the office of State Senator, the discretion shall be exercised by the State committee.

This Section, therefore, provides that if just two candidates have filed for an office and one dies or withdraws prior to the primary, the State Committee is vested with discretion as to whether or not to allow entry of additional candidates.

The question, therefore, is if the General Assembly by its enactment of the Reapportionment Bill for the House intended to make the office of Representative fall within these provisions. Section 3 of the Reapportionment Bill (R1078, H2275) states

All of the provisions of Title 23 of the 1962 Code governing a State office shall apply to the offices of State Senator and of Member of the House of Representatives except in those instances in which special provision is made for such offices and in those instances such special provisions shall control.

It is my opinion that Section 23–396 made the decision as to additional entries for State Senator a matter of discretion with the State committee because the office is a State wide office. Therefore, as a member of the House of Representatives now is deemed to hold a State office, the provisions referring to State Senator would apply to a Representative and the discretion as to whether or not to provide opportunity for entry of additional candidates would be vested with the State Committee.

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