

1981 WL 157911 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 13, 1981

***1 In Re: Mrs. Barbara Moxon—Commission on Women**

The Honorable Richard W. Riley
Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Governor Riley:

You have inquired as to the eligibility of Mrs. Moxon to be appointed to a term of office on the Commission on Women to fill the new term of office which she is presently serving.

The Commission on Women was created by statute adopted in 1970 (70 Acts 2321) and provides for a seven-member commission. Staggered terms are provided for and the first occupant of Mrs. Moxon's position was appointed to a two-year term. According to the records in the Office of the Secretary of State, the following is the sequence of tenure by the various persons holding the office which Mrs. Moxon now occupies:

Mrs. T. W. Wilson—appointed October 19, 1971, with a term designated to expire October 18, 1973.

Mrs. Barbara Moxon—appointed May 31, 1974, with a term designated to expire October 18, 1977 (Mrs. Wilson apparently held over beyond the expiration of her original two-year term.)

Mrs. Barbara Moxon—appointed August 26, 1977, with a term designated to expire October 18, 1981.

The foregoing dates are in conformity with the understanding of Mrs. Moxon, as indicated in a letter to me dated August 12, 1981, from Mrs. Moxon.

Mrs. Moxon has therefore served a partial or unexpired term and one full term, and the question presented is whether the service of the partial term must be considered as coming within the prohibition of the statute relating to the Commission which provides that 'no member shall be eligible to serve more than two consecutive terms.' Section 1-15-10, Code of Laws. This matter was heretofore considered by this Office concerning another member of the Commission, and by an opinion dated January 28, 1980, the conclusion was reached therein that 'a prohibition of individuals serving 'more than two consecutive terms' means that an individual cannot be appointed to serve in two consecutive four-year periods of time.'

This conclusion has been additionally researched in this Office and the correctness of the opinion written in January 1980 is clearly validated. While a number of courts ruled to the contrary, the general weight of authority and a better rule is that a partially served term is not to be considered as a full term or as coming within the prohibition against the holding of more than two consecutive terms.

Mrs. Moxon is, in my opinion, therefore, eligible for consideration to be reappointed to succeed herself on the Commission on Women.

Very truly yours,

Daniel R. McLeod
Attorney General

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