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Building Commission - Term of
Office - Officers and Offices

The Building Commission has authority to act in the interim between the day after the general election and the next regular session of the Legislature if a sufficient number of legislative members are re-elected to establish a quorum.

Dear Representative Butler:

The Office of the Attorney General has received your opinion request. In your request, you stated that the State Building Commission is composed of the Governor, the State Health Officer, the Director of Finance, the State Superintendent of Education, four members of the Senate and four members of the House of Representatives. You also pointed out that the terms of legislators expire the day after the general election in November in the event they are not re-elected to their offices.

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In light of those facts, you asked whether the Building Commission has authority to act during the interim period between the day after the general election and the time that new legislative members are elected to the Commission.

Code of Alabama 1975, §41-9-140, establishes the State Building Commission and provides for its membership as follows:

There is hereby created a building commission, to be known as the building commission, the membership of which shall consist of the governor, the state health officer, the director of finance, the state superintendent of education, four members from the senate to be elected by that body at each regular session of the legislature and four members from the house of representatives to be elected by that body at each regular session of the legislature. In the event of a vacancy on the commission caused by the death or resignation of a member elected by the senate, such vacancy shall be filled by election by the commission at the next regular meeting, such member to be elected from the membership of the senate. In the event of a vacancy on the commission caused by the death or resignation of a member elected by the house of representatives, such vacancy shall be filled by election by the commission at its next regular meeting, such member to be elected from the membership of the house...

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In the event legislative members of the Building Commission are re-elected to the body from which they were originally elected, it is the opinion of this office that those members would continue to serve on the Commission until their successors are elected at the next regular session of the Legislature. Opinion to Honorable Ryan deGraffenreid, State Senator, Tuscaloosa County, under date of December 6, 1982.

However, it is the law in Alabama that eligibility to hold office is of a continuing nature, see State ex rel. Coe v. Harrison, 217 Ala. 80, 114 So.905 (1927), and if during an incumbent's term, he ceases to meet the qualifications of the office, he is no longer entitled to hold that office. State ex rel. James v. Reed, 364 So.2d 303 (Ala. 1978). The qualifications of serving as a legislative member of the Building Commission are that the member hold office in either the House of Representatives or Senate and be elected to the Commission by the body in which he serves. Therefore, it is the opinion of this office that legislative members of the Building Commission who are not re-elected to the body which originally elected them to the Commission are no longer qualified to serve as members of the Building Commission after the expiration of their terms in the Legislature the day after the general election.

Therefore, it is the opinion of this Office that the Building Commission has legal authority to act in the interim period between the day after the general election and the next regular session of the Legislature if there are a sufficient number of members left on the Commission to establish a quorum.

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We hope this response sufficiently answers your question. If we may be of further assistance, please do not hesitate to contact us.

Very truly yours,

CHARLES A. GRADDICK
Attorney General
By:



LEURA J. GARRETT
Assistant Attorney General

LJG/db