



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

October 14, 2003

The Honorable Vida O. Miller
Member, House of Representatives
P. O. Box 3157
Pawleys Island, SC 29585

Dear Representative Miller:

You have asked for an opinion as to the meaning of S. C. Code Section 59-5-10 as that section applies to the rotation among counties in a judicial circuit with respect to representation on the State Board of Education. Section 59-5-10 provides that one member shall be elected to the State Board from each judicial circuit and that such member shall be appointed by a majority of the joint legislative delegation of that circuit.

However, § 59-5-10 provides for rotation among the counties of the circuit in terms of the appointment of the board members from that circuit. Such provision states in pertinent part that

[r]epresentation of a given judicial circuit on the State Board of Education shall be rotated among the counties of the circuit, except by unanimous consent of all members of the county legislative delegations from the circuit. No member shall succeed himself in office except by unanimous consent of the members of the county legislative delegations from the circuit. Members of the legislative delegation of any county entitled to a member of the Board shall nominate persons for the office, one of whom shall be elected to the Board.

Apparently, unanimous consent was given by the delegation of the Fifteenth Judicial Circuit to allow a member of the State Board of Education from Horry County to continue to hold that office. The question which you now raise is whether by allowing this member to continue to serve, Georgetown County has now forfeited its place in the rotation of membership. You have provided a copy of advice rendered by Legislative Council which concluded that at the end of the Horry County member's extended term, "the rotation goes to the next county. In this case that would be Georgetown."

Based upon our reading of § 59-5-10, we concur with this analysis. Nothing in this statute indicates that Georgetown County would forfeit or give up its place in the rotation system because

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of a previous unanimous consent to allow a member from Horry County to continue to serve. Clearly, § 59-5-10, by use of the word "shall" makes rotation mandatory. Here, such rotation was merely stayed or suspended until the end of the Horry County member's term. At the end of such term, however, rotation would be required to allow Georgetown County to take its turn in providing a member on the Board.

With kindest regards,

A handwritten signature in black ink, appearing to be "RDC", written over a horizontal line.

Robert D. Cook
Assistant Deputy Attorney General

RDC/ph