



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
ATTORNEY GENERAL

July 24, 2002

The Honorable Converse A. Chellis, III
Member, House of Representatives
119 Parkwood Drive
Summerville, South Carolina 29483

**Re: Your Letter of July 17, 2002
S.C. Code Ann. §61-6-2010**

Dear Representative Chellis:

In your above-referenced letter, you relate that the "... Town of Summerville has been presented with a petition to conduct a referendum regarding the sale of alcoholic beverages on Sundays pursuant to Section 61-6-2010." This Section of the Code requires that upon receipt of such a petition, a municipality must conduct a referendum "at the next general election." You indicate that "[t]here is considerable concern as to the interpretation of 'the next general election as used in this section.'" Given this concern and at the request of the Town Attorney for Summerville, you ask that this Office issue an opinion on the following question:

Where a proper petition for a referendum regarding the sale of alcoholic beverages on Sundays is received by a municipality pursuant to South Carolina Code Annotated §61-6-2010, should the referendum be placed on the ballot for the next statewide general election, county general election or municipal general election?

With your letter, you have attached materials you received from the Town Attorney and the State Election Commission. The materials indicate that the State Election Commission was presented with the same question as posed above. By letter dated July 15, 2002, the State Election Commission responded that it is their "... position that the intent of the law is for the referendum to be conducted at the next general election held in either the municipality, county or statewide general election ... [therefore] ... since it is the city of Summerville wishing to conduct the referendum, the referendum would be placed on the ballot in May during the city's general election."

Re: Converse A. Chellis

Law/Analysis

When interpreting the meaning of a statute, a few basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to the legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Most often, legislative intent is determined by applying the words used by the General Assembly in their usual and ordinary significance. Martin v. Nationwide Mut. Ins. Co., 256 S.C. 577, 183 S.E.2d 451 (1971). Resort to subtle or forced construction for the purpose of limiting or expanding the operation of a statute should not be undertaken. Walton v. Walton, 282 S.C. 165, 318 S.E.2d 14 (1984). Courts must apply the clear and unambiguous terms of a statute according to their literal meaning. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991).

S.C. Code Ann. §61-6-2010 provides that the S.C. Department of Revenue may issue temporary permits to allow the possession, sale, and consumption of alcohol. Subsection (C)(1) of 61-6-2010 provides, in pertinent part, that:

Permits authorized by this section may be issued only in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permits ... The referendum must be conducted at the next general election ... The state election laws shall apply to the referendum, mutatis mutandis. (Emphasis added).

Title 61 contains no definition of the term "general election." However, Section 61-6-2010 does provide that the "state election laws shall apply to the referendum." Generally, the state election laws are found in Title 7 of the Code. Within Title 7, general definitions are found in Section 7-1-20. Specifically, subsection 7-1-20(1) provides that "'General election' means the election provided herein to be held for the election of officers to the regular terms of office provided by law, whether State, United States, county, municipal or of any other political subdivision of the State, and for voting on constitutional amendments proposed by the General Assembly."

As Section 61-6-2010 contains no specific definition and as the state elections laws are made applicable to the referendum, it seems logical that the legislature would have intended the definition of general election contained in Section 7-1-20(1) to apply to Section 61-6-2010. It would further seem logical, consistent with the position of the State Election Commission, that the Legislature would have intended for the phrase "next general election" to mean any general election for either State, United States, county or municipal offices. Given this determination of legislative intent, it now must be determined how the statute applies to the question at hand.

A similar situation has been addressed by the Tennessee Attorney General's Office. In 1982, the Tennessee Attorney General was asked the meaning of the phrase "next general election" with reference to filling vacancies on city council. The requester asked if the phrase refers only to municipal elections or to all general elections. The Tennessee Attorney General opined that the

The Honorable Converse A. Chellis, III
Page 3
July 24, 2002

phrase refers to any general election "which all registered voters in the city are eligible to participate." See TN. OP. ATTY. GEN. DATED APRIL 21, 1982 (reaffirmed August 27, 1998). This logic is compelling and seems applicable to an interpretation of S.C. Code Ann. §61-6-2010.

Conclusion

The Town of Summerville is part of Dorchester County and the State of South Carolina. Registered voters residing in Summerville will be eligible to vote in any countywide general election involving Dorchester County and any statewide general election. Accordingly, given the determination that the legislature intended the phrase "next general election" to mean any State, county or municipal general election, it is the opinion of this Office that a municipal referendum held pursuant to Section 61-6-2010 should be held at the next general election in which the registered voters of the municipality are eligible to vote. In other words, it is our opinion that upon receipt of a proper petition as provided for in Section 61-6-2010, the municipality should hold the referendum in the next available general election whether it be State, county or municipal.

Sincerely,



David K. Avant
Assistant Attorney General

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