

The State of South Carolina



Office of the Attorney General

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February 1, 1988

The Honorable George H. Bailey
Member, South Carolina House of Representatives
308D Blatt Building
Columbia, South Carolina 29211

Dear Representative Bailey:

You have requested the advice of this Office as to whether any portion of Dorchester County School District 4 can be consolidated with School District 2 through an act of the legislature or whether such consolidation must be accomplished by the approval of the voters of those two districts. Your request references Act 536, Acts and Joint Resolutions of South Carolina, 1986, which provides, in part, as follows:

"Dorchester County School District No. 4, created under the provisions of this part, and Dorchester County School District No. 2 are prohibited from consolidating unless the registered electors of each school district approve a consolidation of the two districts which must be conducted at the time of a general election."

"Where the terms of a statute are clear and unambiguous, there is no room for interpretation and [a court] must apply them according to their literal meaning." South Carolina Department of Highways and Public Transportation v. Dickinson, 341 S.E.2d 134 (1986).

Therefore, the express language of Act 536 prohibits consolidation of Districts 2 and 4 absent the approval of the registered electors of those two districts; however, because Act 536 prohibits only the consolidation of the districts, minor alterations of the boundary lines between the districts under §59-17-20 of the Code of Laws of South Carolina, 1976 might be consistent with Act 536. Section 59-17-20 permits alteration or division of school districts by act of the General Assembly or by authorization of the County Boards of Education upon the approval of the legislative delegation or upon

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written petitions meeting the requirements of that section. ^{1/} See, 1983 Ops. Atty. Gen. No. 83-35. This section indicates that "alteration" of school districts by such means as moving lines does not always constitute consolidation of the districts because separate provisions are made for "consolidation" of school districts under other sections of Chapter 17 of Title 59 of the Code (§§59-17-40 and 59-17-50), (see Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970); Sutherland Statutory Construction, Vol. 2A, §51.02); however, any alteration involving a substantial amount of the population, land or resources of the districts would need to be examined carefully to determine whether it would constitute a consolidation "in part" (see §59-17-50) that might violate the clear prohibition on consolidations of Act 536 absent the approval of the voters.

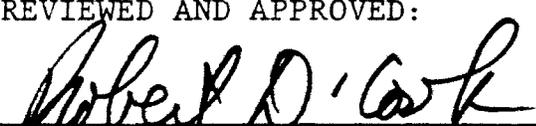
In conclusion, although minor alterations of district lines may be made by the General Assembly under §59-17-20 of the Code, any substantial transfer of population, land or resources between Dorchester School District 2 and Dorchester School District 4 would need to be examined carefully to determine whether it would constitute a consolidation "in part" of the districts that might require the approval of the voters under Act 536.

Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr/srcj

REVIEWED AND APPROVED:


Robert D. Cook
Executive Assistant for Opinions

^{1/} Act 268 of 1987 provides for the abolition of the Dorchester County Board of Education and the devolution of its powers upon the school districts of that county.