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The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

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November 4, 1988

The Honorable John G. Felder
Member, House of Representatives
District No. 93
Post Office Box 437
St. Matthews, South Carolina 29135

F. Lee Prickett, Esquire
Calhoun County Attorney
Post Office Box 346
St. Matthews, South Carolina 29135

Dear Gentlemen:

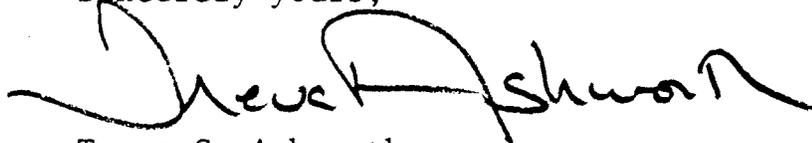
Your recent letter has been referred to me. You have stated that the Calhoun County District School Board requested the Calhoun County Election Commission to put on the general election ballot a referendum on whether or not new schools should be built. You state that a compromise has been worked out between a candidate for the Board and the present Chairman of the District Board and that as part of the compromise the referendum would be withdrawn. You have inquired if that would be possible as absentee ballots have been voted and as the referendum has been precleared by the Justice Department thereby perhaps necessitating the Department's approval to withdrawing the referendum. Additionally, by way of a prior telephone conversation, you have inquired if this referendum was properly called in that the referendum was not called by the General Assembly.

From the copy of the referendum you have provided, the referendum appears to have been called under the provisions of the School Bond Act. South Carolina Code of Laws, 1976, Section 59-71-10, et seq. This Act expressly authorizes the local school authorities to call for a referendum election. The referendum does not appear to be a general referendum on the issue of raising millage which would require the General Assembly to call the referendum. See, 1987 Opinion to the Honorable Paul E. Short from J. Emory Smith, Jr., copy enclosed.

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This Office does not have sufficient details regarding this referendum to provide you guidance as to the legal questions you have raised, including the question of whether or not the Board would presently have the power to rescind the referendum. Only a court, with the benefit of a more detailed factual basis, could definitively answer these questions. As the election is less than a week away, this Office would suggest that a possible procedure would be to proceed with the referendum and then let a court decide if the referendum results should stand.

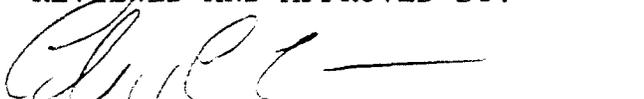
Sincerely yours,



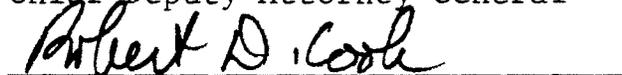
Treva G. Ashworth
Senior Assistant Attorney General

TGA:bvc
Enclosure

REVIEWED AND APPROVED BY:



Edwin E. Evans
Chief Deputy Attorney General



Robert D. Cook
Executive Assistant for Opinions

cc: Daniel R. McLeod, Jr., Esquire
Kenneth L. Childs, Esquire