

The State of South Carolina



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August 25, 1986

Senator John E. Courson
Richland County Legislative Delegation
P. O. Box 192
Columbia, South Carolina 29202

Representative Jean Hoefer Toal
Richland County Legislative Delegation
P. O. Box 192
Columbia, South Carolina 29202

C. Heyward Belser, Chairman
Richland County Election Commission
P. O. Box 192
Columbia, South Carolina 29202

Dear Senator Courson, Representative Toal and Mr. Belser,

Your recent letter has been referred to me for reply. You have stated that you have been advised that the U.S. Department of Justice has precleared the Act bearing ratification number 350 which concerns the election of Richland County School District Trustees. You have inquired as to the correct procedure for receiving candidate filings and conducting this election. This question has arisen due to a possible conflict in the provisions of Act No. 344 of 1986.

Act R350 states in part at Section 5 of that Act that

[a]ll persons desiring to qualify as a candidate and be elected to the boards shall file written notice of candidacy with the county election commission at least sixty days before the date set for the election but not earlier than ninety days prior to the election.

This Act was approved by the Governor on March 5, 1986.

Senator Courson
Representative Toal
Mr. Belser

August 25, 1986

The General Assembly last year also enacted a general law, Act 344, that provides uniform dates for filing statements of candidacy. Section 3 of that Act which is now Section 7-13-352 provides that

[a]ny candidate for a nonpartisan office, multi-county district, county-wide or less than county-wide, to be voted on at the time of the general election, who qualifies by statement of candidacy shall file the statements of candidacy with the authority responsible by law for conducting the election not later than twelve o'clock noon on September first, or if September first falls on Sunday, not later than twelve o'clock noon on the following Monday.

This Act was approved by the Governor on March 7, 1986, making it the Act enacted last in time. This Act also has been precleared by the Justice Department and, therefore, has taken effect. This Act would allow a shorter period of time for receiving filings of candidacy.

Statutes that appear inconsistent must be reconciled whenever possible; to the extent of any inconsistency, the special statute generally will prevail. Criterion Insurance Company v. Hoffmann, 258 S.C. 282, 188 S.E.2d 459 (1972). However, there are instances when a general statute will prevail over a special statute. See, Associated General Contractors of California v. Secretary of Commerce, 441 F.Supp. 955 (C.D. California 1977); United States v. Windle, 158 F.2d 196 (8th Cir. 1946).

In Rhodes v. Smith, 273 S.C. 13, 254 S.E.(2d) 49 (1979) the Supreme Court held that

[s]tatutes of a specific nature are not to be considered as repealed by a later general statute unless there is a direct reference to the former statute or the intent of the legislature to repeal the earlier statute is implicit. State v. Brown, 154 S.C. 55, 151 S.E. 218 (1930); State v. Harrelson, 211 S.C. 11, 43 S.E. (2d) 593 (1947); Culbreth v. Prudence Life Insurance Company, 241 S.C. 46, 127 S.E.(2d) 132 (1962)

There is no direct reference in Act 344 to the specific act regarding Richland County School Districts 1 and 2; nor is there a clear intent to repeal this specific act. In Sutherland