

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-758-3970

February 4, 1986

The Honorable Sam Applegate
Senator, District No. 43
Suite 613, Gressette Building
Columbia, South Carolina 29202

Dear Senator Applegate:

By your letter of January 28, 1986, you have asked whether an amendment to H. 2279, enclosed with your letter, would invalidate the present method of election for the Charleston County Council. The present method provides for at large elections with residential districts. The amendment would require Charleston County Council to reapportion its residency districts prior to the next general election, to reflect the 1980 decennial census.

It appears that the amendment to H. 2279 would not, by itself, invalidate the present method of election. The amendment, if enacted, would only impose a requirement of reapportionment, after every decennial census, upon counties whose governing bodies are elected at large from the county with residency requirements; for counties utilizing that method of election but which did not reapportion the districts following the 1980 census, such reapportionment would be required before the next general election. The amendment would not change the method of election for any county's governing body.

Please be advised that the United States Department of Justice would require preclearance of both the act of the General Assembly and also the reapportionment plan as adopted by Charleston County Council, under the Voting Rights Act of 1965 as amended. It is possible that the Department of Justice could challenge Charleston County's method of election as that agency examines the reapportionment plan, but this Office cannot predict with any degree of certainty the outcome of the preclearance

The Honorable Sam Applegate
Page 2
February 4, 1986

submission or any challenges thereto. See Dusch v. Davis, 387 U.S. 112, 87 S.Ct. 1554, 18 L.Ed.2d 656 (1967) (election of seven of eleven members of a governing body at large with residency requirements upheld).

We trust that the foregoing has satisfactorily responded to your inquiry. Please advise if you need additional assistance or clarification.

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

Robert D. Cook

Robert D. Cook
Executive Assistant for Opinions