

1984 WL 250012 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 19, 1984

*1 David Belding
Special Assistant
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Mr. Belding:

By your letter of October 24, 1984, you have referenced the order issued by the South Carolina Supreme Court declaring the Johnson Township portion of the Williamsburg-Florence County referendum to be constitutionally defective and ordering that a new referendum be held in Johnson Township. You have asked the opinion of the Office on three matters concerning the new referendum.

First, you have asked which board of canvassers would be the appropriate board to order that a new referendum be held. See, Order of the Supreme Court dated October 3, 1984, page 2. The State Board of Canvassers, in their Order dated August 14, 1984, stated on pages 13-14 that the Governor should call the new referendum pursuant to [Section 7-13-1170 of the Code of Laws of South Carolina \(1976\)](#). That section provides in pertinent part that if an election for any reason be declared void by competent authority, and any of these facts shall be made to appear to the satisfaction of the Governor, he shall, should the law not otherwise provide for such a contingency, order an election or a new election to be held at such time and place or places, and upon such notice being given as to him may seem adequate to insure the will of the electorate being fairly expressed. . . .

The General Assembly apparently has not given authority to either the State Board of Canvassers (State Election Commission) or the Williamsburg County Board of Canvassers (Williamsburg County Election Commission) to order a new election. By Section 4-5-170, the Governor is the appropriate official to order the election in an annexation proceeding in the first instance. Thus, it would appear appropriate that the Governor order the new referendum instead of the State Board of Canvassers or the Williamsburg County Board of Canvassers.

You have asked whether one of the boards of canvassers or the Governor, by Executive Order, should set the date of the new referendum. Based on [Section 7-13-1170 of the Code](#), cited above, it would be the responsibility of the Governor to set the date of the new referendum.

Finally, you have asked who must bear the cost of holding the second referendum. Please be advised that the resolution of this question is pending in a court proceeding. It is the long-standing policy of this Office to decline to comment on issues pending judicial determination. See letters of the Attorney General dated January 20, 1984 and May 15, 1984. Thus, we must decline to respond to your final question.

Please advise this Office if you need additional assistance or clarification in this matter.

Sincerely,

Patricia D. Petway
Assistant Attorney General

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