

1981 WL 158210 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 31, 1981

*1 The Honorable Larry E. Gentry
Member
House of Representatives
Saluda County
323C Blatt Building
Columbia, South Carolina 29201

Dear Mr. Gentry:

You have inquired as to the status of the representative from the Eleventh Judicial Circuit upon the Agriculture Commission.

[Section 46-5-10 South Carolina Code](#) of Laws (1976) provides for the membership of the Agriculture Commission to consist of one member from each Judicial Circuit serving staggered four year terms. Also, the Governor appoints one member at large, who is always designated Chairman. The Act requires the representation from each Judicial Circuit to be rotated among the counties of the Circuit unless such rotation is waived by unanimous consent.

Pursuant to the provisions of the statute, Mr. Hugh Clark, of Edgefield County, was appointed by the Governor to fill the initial three-year term. Although Mr. Clark was appointed on August 20, 1968, his term, in my opinion, ran from the effective date of the Act, May 1, 1968, until May 1, 1971. After a short holdover period, Mr. James Childers, of Lexington County, was elected to the Commission in compliance with the provision of the statute calling for the election of a representative from the most populous county first. Mr. Childers' term began on May 1, 1971, and expired on May 1, 1975. He served as a holdover appointee until April 18, 1977, when Mr. Frank Berry, of Edgefield County, was elected to serve the third term upon the Commission. Edgefield County is the second most populous county in the Eleventh Judicial Circuit. As Mr. Berry's term expired on May 1, 1979, he is presently serving as a holdover appointee.

Consistent with my opinion of March 22, 1977, I believe that this population system is necessary to carry out the legislative intent as expressed in the statute. As a point of clarification, however, let me say that I am of the opinion that the population system should be used to set up the order of rotation initially and that the same order of rotation should be used thereafter regardless of any shifts in population. It is my opinion that the legislature intended to set up a fair and orderly system of rotation which would not be effected by subsequent demographic shifts.

According to the 1980 Census, Saluda County follows Edgefield County in order of population. I therefore advise that, in my opinion, the vacancy which was created by the expiration of Mr. Berry's term should be assigned to Saluda County unless the County Delegations unanimously consent to do otherwise.

I trust that this has sufficiently answered your question. If not, I would be pleased to discuss this matter with you. If I am unavailable you may contact Clifford Koon of this office, who has assisted me in the preparation of this opinion.

With best wishes, I am
Very truly yours,

Daniel R. McLeod

Attorney General

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