

1980 WL 121096 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 14, 1980

\*1 The Honorable Peden B. McLeod

Senator

District No. 15

McLeod, Fraser and Unger

111 Washington Street

Walterboro, South Carolina 29488

Dear Senator McLeod:

You recently sent to us a letter written to you and Representative Jackson Gregory by a newspaper editor posing the question of whether or not a negative vote on a motion before the County Council in an executive session was a vote committing the Council to a specific course of action which must be ratified in public session under the Freedom of Information Act requirements. The South Carolina Freedom of Information Act, Section 30-4-70(A)(5) states that:

Any formal action taken in executive session shall thereafter be ratified in public session prior to such action becoming effective. As used in this item 'formal action' means a recorded vote committing the body concerned to a specific course of action.

It is the opinion of this Office that when a motion is made before a body that the only responses to that motion would be either a positive or a negative response or vote. Therefore, a negative response is just as much a commitment to a 'formal action' as would be a positive vote. If a motion is made in executive session and a negative vote is received, then prior to this negative vote becoming effective that vote must be ratified in public session.

If I may be of further service, please do not hesitate to contact me.

Sincerely,

Judith Evans Finuf

Assistant Attorney General

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