

1977 S.C. Op. Atty. Gen. 113 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-135, 1977 WL 24476

Office of the Attorney General

State of South Carolina

Opinion No. 77-135

May 3, 1977

\*1 Mr. Ed McElveen  
Lee County Administrator  
Lee County Courthouse  
Bishopville, SC 29010

Dear Mr. McElveen:

You have requested an opinion from this Office as to whether or not the Lee County Council can presently exercise the powers granted by the provisions of Act No. 283 of 1975, the 'home rule' legislation. In my opinion, the Council cannot exercise the 'home rule' powers until the United States Justice Department has approved the new form of county government and method of election pursuant to Section 5 of the 1965 Voting Rights Act. Even though Section 14-3701(a), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), provides that the form of government selected by referendum becomes effective in a particular county immediately upon filing with the Secretary of State a resolution adopting the form of government selected, the Justice Department has informed this Office that it is requiring all South Carolina counties to submit their method of election as well as their new form of government to it for clearance before the provisions of Act No. 283 can be implemented in a particular county. Consequently, our Office has been advising counties accordingly; I see no obstacle, however, to your submitting your new form of government to Justice earlier than your method of election is submitted. Then, once Justice approves your form, the Council will be able to exercise the 'home rule' powers.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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