

1976 WL 30614 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 16, 1976

\*1 Representative John G. Felder  
101 Herlong Avenue  
St. Matthews, South Carolina 29135

Dear Representative Felder:

You have requested an opinion from this office as to the status of the present members of Calhoun County's Board of Commissioners now that Calhoun County, according to your letter, has chosen the council form of government and the single member election district method of election as a result of a referendum conducted pursuant to Section 14-3701(a) of Act No. 283 of 1975, the 'home rule' legislation.

Our office has consistently taken the position that, notwithstanding the language in Section 14-3701(a) of the Act which provides that the county resolution adopting the form of government selected in the referendum is effective upon its being filed with the Secretary of State, the Act cannot be further implemented by any county until the United States Department of Justice, acting pursuant to Section 5 of the 1965 Voting Rights Act, approves both the new form of government and the method of election selected by that county. Once Calhoun County's council form and single member method of election are approved by the Justice Department, then the present commissioners will become members of the new council until their present terms of office expire. See, §§ 14-3701(e) and 3(3)(a) of the Act. The Act does allow them, however, to seek election, if they choose, to the new single member seats on council in November, 1976, without first having to resign from their present offices. See, § 3(3)(a) of the Act. If they choose to serve out the unexpired terms of their offices, they will serve as members of the new council in addition to those members elected from the requisite number of single districts as determined by the General Assembly. See, § 3(3)(a) of the Act.

Any continuation of the authority of the Legislative Delegation to legislate in reference to Calhoun County specifically is especially suspect in light of Judge Morrison's recent opinion regarding Horry County. See, Booth, et al. v. Grissom, et al., Order dated May 13, 1975, appeal dismissed on other grounds, — S.C. —, 217 S.E.2d 223 (1975).

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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