

1976 WL 30709 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 15, 1976

*1 Ms. Jennifer D. Smith
President
League of Women Voters
14 Howell Circle
Greenville, South Carolina 29607

Dear Ms. Smith:

In response to your request for an opinion from this Office as to certain aspects of Act No. 283 of 1975, the 'home rule' legislation, my opinions are as follows:

(1) A county council cannot, in my opinion, enact an ordinance adding a residency requirement to the at large method of election, if that method is chosen by referendum pursuant to § 14-3701(a) of the Act. The Act specifies only two methods of election which can be selected by referendum and any county ordinance varying those two methods would violate the provisions of the state-wide legislation. See generally, 5 McQUILLIN, MUNICIPAL CORPORATIONS § 15.20 at 81 (1969). The Act, in § 14-3701(c), provides the procedure for altering the method of election selected by referendum and a local ordinance cannot derogate therefrom. Id., § 15.22 at 90.

(2) The provisions of Article 7 of Part I of the Act setting forth initiative and referendum procedures do not, in my opinion, provide a means by which the method of election selected by referendum can be varied for the same reason as hereinabove stated, i.e., a local ordinance cannot conflict with state-wide legislation covering the same subject matter.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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