

1976 WL 30719 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 17, 1976

\*1 Senator Gilbert Edward McMillan  
State House  
Columbia, South Carolina

Dear Senator McMillan:

You have requested an opinion from this Office as to the effect in Aiken County of certain transition provisions of Act No. 283 of 1975, the 'home rule' legislation.

Section 3 of the Act provides in part:

After one of the forms of county government, . . . has been adopted and becomes effective, to insure an orderly transition from existing forms of government, the following procedures shall be initiated and carried out by each county council:

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(3) Take all other necessary actions to implement the form of government adopted and the transition to that form including but not limited to:

(a) a schedule for the election of council members and supervisors where appropriate based on the expiration of terms of persons serving unexpired terms when a new form of government becomes effective. Composition of councils need not conform to the numerical requirements prescribed for the form adopted until such unexpired terms are completed. [Emphasis added.]

As I understand it, Aiken County has conducted a referendum pursuant to § 14-3701(a) of the Act and has selected a new form of county government and the single member election district method of election. I also understand that the bill relating to Aiken County pending in the General Assembly provides for an eight-member council to be elected from the eight districts therein designated, plus a chairman to be elected at large as a separate office.

Inasmuch as the Act does not provide a method whereby a county whose new council members are elected from single member districts can determine, during the transition period when holdovers from the present governing body can sit on the new council and, consequently, can be counted toward the numerical requirements prescribed for that new council, which newly created districts will elect their members during the transition period and which will not elect them until the holdovers' terms have expired, my opinion is that such a county must elect the full complement of new members and also allow any holdovers to sit on an expanded council. In other words, a county which selects the single member district method of election for the members of its new governing body must, during the transition period and beginning with the general election set for November, 1976, elect the precise number of members prescribed for it; in addition, any holdovers who wish to serve out their terms will be added to that number so that a county which uses the single member district method of election will, during the transition period, necessarily have an expanded council if any holdovers choose to serve out their unexpired terms.

As far as Aiken County is concerned, then, it must, at the November, 1976, general election, elect the eight members from the eight designated single member districts to its new council and, as an addition thereto, allow any holdovers from the present governing body who wish to serve out their unexpired terms to do so. In the event that the term of the present chairman expires this year, then Aiken County must also, at the November, 1976, general election, elect a new chairman at large as a separate office.

With kind regards,

**\*2** Karen LeCraft Henderson  
Assistant Attorney General

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