

1976 WL 30728 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 19, 1976

\*1 Councilman Cleve Edmunds  
511 Edgefield Road  
Belvedere, South Carolina 28941

Dear Mr. Edmunds:

You have requested an opinion from this Office as to whether or not those members of Aiken County's present governing body whose terms do not expire at the end of this year must first resign their position in order to run for one of the seats on that County's new council and, further, if they are defeated in their race for one of the new seats, whether or not they can still serve out the unexpired terms of their present offices.

Act No. 238 of 1975, the 'home rule' legislation, in Section 3(3)(a) thereof, authorizes the members of Aiken County's present governing body, if they choose, to seek election to the new single member seats on council in November, 1976; that Section does not require that they must first resign from the offices which they presently hold. Moreover, if they are defeated in their race for one of the seats on the new council, there is nothing in the Act prohibiting them from serving out the remaining terms of their present offices.

You have also inquired as to the effective date of the implementation of the provisions of Act No. 283 by Aiken County. Our Office has consistently taken the position that the new powers granted to counties and municipalities by the provisions of Act No. 283 cannot be exercised until the United States Department of Justice has given its approval to the new form of county or municipal government and to the county's or municipality's method of election pursuant to Section 5 of the 1965 Voting Rights Act.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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