

1976 WL 30731 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 22, 1976

*1 Mayor Charles Ross
Town of Lincolnton
P. O. Box 536
Summerville, South Carolina 29483

Dear Mayor Ross:

You have requested an opinion from this Office as to whether or not the Town of Lincolnton, which is presently in the process of electing public officials, will have to hold another election once the provisions of Act No. 283 of 1975, the 'home rule' legislation, become effective, if the election now in progress is completed before the Town adopts its new form of municipal government.

Section 6 of the Act provides that a municipality must adopt one of the three alternate forms of municipal government within fifteen months of the effective date of the Act (*i.e.*, by September 24, 1976) or that municipality will be deemed to have forfeited its articles of incorporation. That Section also provides that the form adopted becomes effective at the beginning of the fiscal year following adoption. Section 29.2 of the Act provides:

Upon initial adoption of or on any change to one of the alternate forms of government, all members of the existing governing body shall continue to serve their elected terms and until their successors are elected and qualify.

If, therefore, the Town of Lincolnton elects members of its present governing body before the new form of municipal government becomes effective, those members will serve as members of the new governing body until their terms expire and their successors are elected and qualify. There will be no need for another election immediately after the adoption of a new form unless the new form specifies a larger number of members than comprise the present governing body, in which case those additional members will need to be elected pursuant to the provisions of Article 7 of Act No. 283.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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