

1976 WL 30730 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 22, 1976

*1 Representative Irene K. Rudnick
P. O. Box 544
Aiken, South Carolina 29801

Dear Representative Rudnick:

You have requested various opinions from this Office concerning Act No. 283 of 1975, the 'home rule' legislation. I shall respond to them in the order in which you have asked them:

1. Section 14-3706 provides, in part, that '[i]n those counties in which the chairman of the governing body was elected at large as a separate office prior to the adoption of one of the alternate forms of government provided for in this chapter, the chairman shall continue to be so elected,' a situation which obtains in Aiken County. See, 57 STAT. Act No. 1078, § 3 at 2249 (1972). That part of Section 14-3706 of the Act which allows a chairman presently so elected to continue to be so elected under 'home rule' must be considered as a proviso or express exception to that portion of Section 14-3701(a) of the Act which allows the county electorate to select the single member election district method of electing the members of its county council. As such, there is nothing constitutionally infirm about it, at least, not facially so, and, therefore, since it has been enacted, it must be presumed constitutional.

2. Section 3 of Act No. 283 provides in part as follows:

All operations, agencies and offices of county government, appropriations and laws related thereto in effect on the date the change in form becomes effective shall remain in full force and effect until otherwise implemented by ordinance of the council pursuant to this act. Provided, however, that county councils shall not enact ordinances in conflict with existing law relating to their respective counties and all such laws shall remain in full force and effect until repealed by the General Assembly or until January 1, 1980, whichever time is sooner, . . .

Under the above-quoted provision, §§ 65-2207 through 65-2207.7, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, will continue in effect until at least January 1, 1980, after which date the Aiken County Council will be able by ordinance to alter the duties and functions of the Aiken County Tax Collector's office if it so desires. Cf., 59 STAT. Act No. 283, § 14-3744 at 710 (1975) (relating to the very limited authority of the county administrator vis a vis elected officials whose offices were created by the Constitution or by general law).

3. The holdovers from Aiken County's present governing body were elected by the county-wide electorate at large notwithstanding the fact that they must reside in one of several residency districts [57 STAT. Act No. 1078, § 3 at 2249 (1972)]; therefore, they represent the county-wide electorate and not merely the voters residing in their respective residency districts. See generally, [Dallas County v. Reese](#), 44 L.Ed.2d 312 (1975). On the other hand, the new members of the council will be elected by the voters of each single member election district only and, consequently, will represent only those voters; there will not be, then, during the transition period expressly provided for in Section 3(3)a of the Act, 'two people serving from one district at one time' in violation of the one man one vote principle.

With kind regards,

*2 Karen LeCraft Henderson
Assistant Attorney General

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