

1976 WL 30427 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 14, 1976

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Dear Mike:

Thank you for your letter of April 12, 1976, concerning model ordinance No. 8 suggested by the Municipal Association and providing for nonpartisan elections.

The Home Rule Act provides for the municipalities to hold nonpartisan elections. Section 47-94. Section 47-100 provides in the next to the last paragraph that when a nonpartisan election is provided for, 'if a second election is needed, the candidates receiving a majority of the votes cast in that election shall be declared elected.'

The Municipal Association, realizing that the requirement of majority elections in run-offs could result in no candidate receiving a majority, is undertaking to amend Section 47-100 so that if an individual does not receive a majority of votes in the first election, the individuals receiving the highest number of votes for each office shall run off. In that election, the individuals receiving the highest number of votes (rather than a majority) will be elected. This type of thing has already caused trouble in one municipal election because of a majority requirement which formerly existed in the uniform election law.

Therefore, I would not adopt the model ordinance until legislative changes are made to bring about a system which will avoid an impasse where no candidate in a run-off receives a majority. Sometimes write-in votes or votes among a number of candidates can bring this about.

Another feature is with respect to the 5 percent petition to nominate. This will not fit in some smaller towns and it is my understanding that the Municipal Association has this under consideration also.

I personally favor nonpartisan elections and the trend is definitely in that direction in a number of instances, which have been accomplished by statute. The constituent school districts in Charleston County is a good example, and there are others. This latter trend has been brought about, I think, by seeking to avoid the bitterness of partisan elections, particularly in smaller areas. When everyone is a candidate, regardless of political affiliation, I believe that a better approach to electing the best qualified people can be brought about. Partisanship can still play a vital part, of course, but this has a healthy effect, whether it is by political partisanship or by informal personal collective action. I believe that, basically, the resort to nonpartisan elections is, however, chiefly due to the unpleasantness and embarrassment which strident support generally produces. Partisanship too often seeks to place an individual in office merely because he bears a label, and not because he is the best qualified person for the position.

While I favor nonpartisan elections, especially in the municipal area and in such areas as school districts, I would suggest that action in adopting the model ordinance No. 8 be deferred until legislative changes have been made. The Municipal Association is in close contact with this problem.

\*2 With best wishes,  
Cordially,

Daniel R. McLeod  
Attorney General

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