

1976 S.C. Op. Atty. Gen. 241 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4401, 1976 WL 23019

Office of the Attorney General

State of South Carolina

Opinion No. 4401

July 21, 1976

\*1 Senator James M. Morris

State House

Columbia, South Carolina

Dear Senator Morris:

You have requested an opinion from this Office as to whether or not the General Assembly has the authority to enact a 'supply bill' for Clarendon County after July 1, 1976. While the matter is certainly not free from doubt, my opinion is that the General Assembly can enact such legislation.

As I understand that facts, Clarendon County did not conduct a 'home rule' referendum pursuant to Section 14-3701(a) of Act No. 283 of 1975 and, therefore, by virtue of the provisions of Section 14-3701(b) of that Act, moved into the council-administrator form of county government as of July 1, 1976. Although that Section of the Act does provide that Clarendon County is to have the council-administrator form of government 'beginning on that date' and, notwithstanding the fact that under that form of government, the county council adopts the budget and assesses and levies taxes [see, §§ 14-3703(s) and 14-3711], our Office has consistently taken the position that the new powers granted to counties by the provisions of Act No. 283 cannot be exercised until the United States Department of Justice has given its approval both to the new form of county government and to the county's method of election pursuant to Section 5 of the 1965 Voting Rights Act. The Justice Department has heretofore notified our Office that it will require all counties to submit their form of government and method of election to it for approval irrespective of whether that form and that method were selected pursuant to a referendum of pursuant to Section 14-3701(b). Inasmuch as the Clarendon County Board of Commissioners did not previously possess the power to adopt a budget and to assess and levy taxes pursuant to its organic act [see, §§ 14-1510.1, 14-1501.2, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.)], my opinion is that it should not exercise these powers until the Justice Department's approval is obtained. In order to provide a means by which counties like Clarendon can continue to function until they can exercise their new powers without question, our Office has advised either the passage of new 'supply bills' or the operation of the county concerned pursuant to the previous year's supply act. I am informed that the General Assembly has enacted supply acts for other counties this year and that the county governing bodies have then ratified or affirmed that legislation in an effort to remove any doubt as to the validity thereof. Perhaps the Clarendon County governing body will find it advisable to do likewise.

With kind regards,

Karen LeCraft Henderson

Assistant Attorney General

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