

1976 WL 30500 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 28, 1976

\*1 W. E. Jenkinson, III, Esquire  
Williamsburg County Attorney  
P. O. Drawer 669  
Kingstree, South Carolina 29556

Dear Mr. Jenkinson:

You have requested an opinion from this Office as to whether Williamsburg County's new form of government, the council-supervisor form provided for by Article 3 of Act No. 283 of 1975, the 'home rule' legislation, must have an even number of council members. In my opinion, it need not.

Section 14-3730 of Act No. 283 specifies that:

[t]he council in those counties adopting the council-supervisor form of government provided for in this article shall consist of not less than two nor more than twelve members who are qualified electors of the county. [Emphasis added.]

Clearly, then, the only numerical restriction imposed by Section 14-3730 is that the council membership must not be fewer than two nor greater than twelve, *i.e.*, the membership can consist of 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 members. There is no requirement, either express or implied, that the council membership be composed of 2, 4, 6, 8, 10, or 12 members only.

You have also inquired as to the status of the action entitled Duncan v. County of York, et al., now pending in the original jurisdiction of the South Carolina Supreme Court. Briefs of both parties, as well as that of the Attorney General as *amicus curiae*, have long since been submitted and arguments were heard in mid-April, although the Court's decision has not been handed down to date. For these reasons, any motion to intervene or other action on the part of Williamsburg County vis a vis the Duncan case would not be possible at this date. Of course, the Court's decision therein as to the constitutionality of the General Assembly's authority to designate the number of York County's council members, their terms of office and the single member election district lines will apply to all other South Carolina counties as well.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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