



ALAN WILSON  
ATTORNEY GENERAL

August 14, 2026

The Honorable Gary Bunker  
Aiken County Council Chairman  
1930 University Parkway, Suite 3100  
Aiken, SC 29801

Dear Chairman Bunker:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You advised that Aiken County Council is considering an ordinance to call for a referendum on Sunday alcoholic liquor sales by the drink as permitted by South Carolina Code Section 61-6-2010. As required by the statute, you advise that the referendum question on the ballot would be:

Shall the South Carolina Department of Revenue be authorized to issue temporary permits in Aiken County for a period not to exceed twenty-four hours to allow the possession, sale, and consumption of alcoholic liquors by the drink to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for consumption-on-premises sales?

In your letter, you ask the following questions:

- (1) If the voters approve the above referendum question, would such approval mean that Sunday alcohol sales would be permitted anywhere within the geographic confines of Aiken County, and not just in the unincorporated portions of the County; *i.e.*, would bona fide nonprofit organizations and business establishments located in incorporated towns or municipalities also be allowed to sell alcohol on Sundays, in addition to such entities that are located in the unincorporated portions of Aiken County?
- (2) Would all registered voters who live anywhere in Aiken County (whether in towns or municipalities or in the unincorporated portion of Aiken County) be permitted to vote on the above referendum question, or would only voters who live in the unincorporated portion of Aiken County be allowed to vote on the above referendum question?

It is the opinion of this office that a county referendum on this matter has countywide impact and that all qualified electors of the county should be allowed to vote in the referendum.

While researching and drafting this opinion, this office has had several communications with your county attorney about your request and its origins. He advises that while Aiken County Council was considering the Sunday alcohol sales referendum, a local paper quoted a member of council for the proposition that only voters in unincorporated parts of the county would vote in the referendum and only unincorporated parts of the county would be affected by the referendum. In response, a Department of Revenue staff member contacted the county attorney to advise that if a favorable county referendum was held, the Department of Revenue would issue permits anywhere in the county including inside city limits.

This office has a long-standing policy against issuing opinions about matters that are in litigation. Op. S.C. Att’y Gen., 1995 WL 803573 at \*1 (May 19, 1995). This request was put on hold while this matter was the subject of a declaratory judgment action Aiken County brought on the two issues posed here as well as a challenge to the constitutionality of part of the statute. We were later informed the county has now dismissed the action so we may now consider your questions. Aiken County v. Bd. Of Voter Registration and Elections of Aiken County, 2026-CP-02-01454, filed on June 3, 2026, and dismissed without prejudice on July 31, 2026.

### Law/Analysis

For the reasons discussed below, it is our opinion that a favorable county referendum on whether to permit the sale of alcoholic liquor sales by the drink on Sundays pursuant to Section 61-6-2010 authorizes the Department of Revenue to issue permits anywhere in that county, including to eligible applicants located inside city limits. We also hold the opinion that all qualified county electors are eligible to vote in such a referendum, not just those who live in unincorporated parts of the county. However, we understand the statute as written might leave even the most skilled reader bewildered and uncertain and might benefit from legislative clarification. Our opinion is purely advisory. Should Aiken County Council continue to have concerns, we encourage you to direct your county attorney to refile the declaratory judgment action and to add the Department of Revenue as a party.

Section 61-6-2010 is the narrow path created by the General Assembly to allow for the possession, sale and consumption of alcoholic liquor by the drink at restaurants, bars, and private clubs on Sundays.<sup>1</sup> Currently, the portions of Section 61-6-2010 relevant to the issues at hand are as follows:

(A) In addition to the provisions of Section 61-6-2000, the department may issue a temporary permit to allow the possession, sale, and consumption of alcoholic

---

<sup>1</sup> Section 61-6-2010 also provides a referendum path for retail businesses to sell beer and wine for off-site consumption on Sundays, but that issue is not a subject of this opinion.

liquors by the drink. This permit is valid for a period not to exceed twenty-four hours and may be issued only to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for sales. . . .

(C)(1) A permit authorized by this section may be issued only in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit. The county or municipal election commission, as the case may be, shall conduct a referendum upon petition of at least ten percent but not more than seven thousand five hundred qualified electors of the county or municipality, as the case may be. . . . On or after June 21, 1993, the question on the ballot shall be one or both of the following:

(a) "Shall the South Carolina Department of Revenue be authorized to issue temporary permits in this (county) (municipality) for a period not to exceed twenty-four hours to allow the possession, sale, and consumption of alcoholic liquors by the drink to bona fide nonprofit organizations and business establishments otherwise authorized to be licensed for consumption-on-premises sales?"

. . . .

(4) In addition to the petition method of calling the referendum provided for in item (1) of this subsection, a county or municipal governing body by ordinance may also call the referendum. Upon receipt of a copy of the ordinance filed with the county or municipal election commission at least sixty days before the date of the next general election, the commission shall conduct the referendum in the manner provided in this section at that general election. The provisions of this item are in addition to the authority of a municipal governing body to call for a referendum under the circumstances enumerated in subsection (D).

(D)(1) The municipal governing body may order a referendum on the question of the issuance of temporary permits to allow the possession, sale, and consumption of alcoholic liquors by the drink in the following circumstances:

- (a) parts of the municipality are located in more than one county;
- (b) as a result of a favorable vote in a county referendum held pursuant to this section, permits may be issued in only the parts of the municipality located in that county; and
- (c) the proposed referendum would authorize issuance of permits in the remaining parts of the municipality.

(2) The method of ordering a referendum provided in this subsection is in addition to the petition method provided in subsection (C). An unfavorable vote in a municipal referendum does not affect the authority to issue these permits in the part of the municipality located in a county where these permits may be issued.

....

(F) Temporary permits issued by the Department of Revenue pursuant to this section may be issued in all parts of a municipality if any part of the municipality is located in a county where the issuance of these permits is allowed.

S.C. Code Ann. § 61-6-2010 (2022).

As always, the primary goal in statutory construction is to determine and give effect to the intent of the legislature. Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000). The text of the statute is the best evidence of the legislature's intent. Creswick v. Univ. of S.C., 434 S.C. 77, 82, 862 S.E.2d 706, 708 (2021). As to your first question, our review of the statute's text leads us to conclude that a favorable county referendum held pursuant Section 61-6-2010, irrespective of whether it is called by a petition of electors or by county council, allows the Department of Revenue to issue such permits anywhere in the county, including inside city limits. Our review of the statute's history also supports this conclusion.

As you have observed, Section 61-6-2010 could be more clearly drafted. The statute does not explicitly address the scope of a favorable county referendum, does not contain the word Sunday, and does not contain the words incorporated or unincorporated. This office has on several occasions noted that Section 61-6-2010, and its predecessor, Section 61-5-180, lack clarity. Ops. S.C. Att'y Gen., 2016 WL 7627026 at \*18 (December 20, 2016) (portion of 61-6-2010 "inartfully drafted"); 2006 WL 2382443 at \*2 (July 27, 2006) (cautioning Subsection (C)(4) of Section 61-6-2010 "lacks clarity"); 1990 WL 482426 at \*3 (May 1, 1990) (statutory language of Section 61-5-180 "lacks clarity"); 1984 WL 249691 at \*1 (October 2, 1984) ("language chosen by the legislature [in 61-5-180] is not completely clear").

A review of Subsections (D) and (F) persuades us that a favorable county referendum allows the Department of Revenue to issue temporary permits in all parts of the county, including inside city limits. A county referendum may be called either by a petition of qualified electors or by ordinance passed by county council. § 61-6-2010(C)(1) (petition), (C)(4) (ordinance of county council). Subsections (D) and (F) both address the effect of a favorable county referendum on a split-county municipality. Subsection (D) allows the governing body of such a municipality to call a referendum to determine if temporary permits may be issued in the portions of the city that are outside the county that held the referendum. Subsection (F) allows the Department of Revenue to issue temporary permits throughout a municipality if the municipality is partially located in a county where they are authorized. Although these subsections do so in different ways, both provide a way that a split-county municipality may have the same rule throughout its entire

corporate boundaries when one county has approved temporary permits and another has not. The premise underlying both subsections is that a county referendum in favor of temporary permits applies throughout the county, not only in unincorporated parts of the county. This reading is the only one that gives Subsections (D) and (F) any meaning. Florence Cnty. Democratic Party v. Florence Cnty. Republican Party, 398 S.C. 124, 128, 727 S.E.2d 418, 420 (2012) (“This Court will not construe a statute in a way which leads to an absurd result or renders it meaningless.”). We note the Department of Revenue appears to share our reading of Subsection (D). In an email exchange with Aiken County’s attorney, a staff member with the Department of Revenue cited Subsection (D) as well as the absence of the word unincorporated from the statute for the Department of Revenue’s position that if the county referendum passed, “it will be approved for all municipalities within Aiken County.”

An abbreviated review of the history of Section 61-6-2010 also supports our conclusion. In 1984, the General Assembly passed Act Number 410 to authorize the issuance of temporary permits to possess, sell, and consume alcoholic liquors in sealed containers of two ounces or less. Act No. 410, 1984 S.C. Acts 1832. The permits were only to be issued to bona fide nonprofit organizations and businesses authorized to be licensed for sales. Id. Act 410 was codified at South Carolina Code Section 61-5-180. Although the legislation authorized permits for alcoholic liquor to be sold and consumed by the drink on Sundays, the word Sunday did not appear in its text. Id. According to a 1990 opinion of this office, when this effect was made clear, a public outcry followed. Op. S.C. Att’y Gen., 1990 WL 482426 at \*1 (May 1, 1990).

After that public outcry, the General Assembly quickly amended the statute so that permits could only be issued in counties or municipalities which had a referendum vote in favor of allowing the sales. Act No. 512, 1984 S.C. Acts 3096. Initially, a referendum could only be called by a petition of a percentage or number of qualified electors of the county or municipality. Id. Over time, the statute was recodified as 61-6-2010 and the state moved from the sale of alcoholic liquor in mini-bottles to free pour. Act No. 415, § 1. 1996 S.C. Acts 2458, 2507 (recodification); Act No. 139, § 19, 2005 S.C. Acts 1582, 1597 (mini-bottles to free pour). Since it was recodified in 1996, Section 61-6-2010, which is but a single component of the Alcoholic Beverage Control Act of Chapter 6, Title 61, has been amended twelve times. Challenges in interpreting the statute are emblematic of the complexities of this portion of our state code. Despite the many amendments, and perhaps at least in part because of them, the challenges in interpreting the statute’s meaning and the General Assembly’s intent have not dissipated.

In 2002, the General Assembly added Subsection D and its subparts, permitting a municipal council of a split-county municipality to order a referendum on temporary permits after a favorable county referendum left the municipality with more than one rule regarding Sunday alcohol sales. Act No. 353, 2002 S.C. Acts 3814. This was the first time the General Assembly allowed a local government to call for a referendum on this issue. Notably, subsection (C)(4), which permits the governing bodies of both counties and municipalities generally to call for a referendum by ordinance, was not added to the statute until 2006. Act No. 386, § 56, 2006 S.C. Acts 3018. It is at least arguable that the addition of Subsection (C)(4) subsumed the need for Subsection (D);

however not only did the General Assembly choose to retain Subsection (D) but it included language in Subsection (C)(4) that the authority a municipal governing body had to call a referendum generally was in addition to the authority provided for in Subsection (D).

Subsection F was added to Section 61-6-2010 in 2008. Act. No. 353, § 2, Pt. 21E.1, 2008 S.C. Acts 3464, 3524. Subsection F provides “[t]emporary permits issued by the Department of Revenue pursuant to this section may be issued in all parts of a municipality if any part of the municipality is located in a county where the issuance of these permits is allowed.” § 61-6-2010(F). Without altering the authority of the governing body of a split-jurisdiction municipality to call a referendum using Subsection (D), Subsection (F) authorizes the Department of Revenue to issue temporary permits throughout a municipality if part of the municipality is located in a county where the issuance of temporary permits is allowed. Subsection (F) clarifies the authority afforded the Department of Revenue and arguably obviates the need for any municipality to use Subsection (D), but the General Assembly again chose to retain Subsection (D) thus allowing an eligible municipal governing body the continued authority to call a referendum under its provisions.

The addition of Subsection (D) appears to be motivated by a desire to allow municipalities to have consistent laws within their borders. This would only be necessary if a county referendum applied countywide. Further, Subsection (F) is meaningless if a county referendum does not have countywide impact. Our review of Section 61-6-2010’s history reinforces our conclusion on reading the statute that a favorable county referendum impacts the incorporated parts of the county to the extent those municipalities do not already have temporary permits by way of their own municipal referendum.

Although we believe a county referendum has countywide impact, it is understandable that the Aiken County Council may have doubts for several reasons. First, our conclusion here is not the same as we have reached in the past on this question. In 1984, in response to questions about Section 61-5-180, the predecessor to Section 61-6-2010, we advised that a county referendum held pursuant to a petition “would be applicable and thus operative only within the unincorporated areas of the county conducting the referendum.” In 2006, this office considered several questions following the addition of Subsection (C)(4) to Section 61-6-2010. In that opinion, this office concluded that a favorable county referendum would apply only in unincorporated parts of the county. Op. S.C. Att’y Gen., 2006 WL 2382443 at \*2 (July 27, 2006). Our 1984 opinion was issued before any local governing body was authorized to call for a referendum on temporary permits for any reason. As for our 2006 opinion, it is internally logical but failed to give meaning to Subsection (D).

Second, other counties holding referendums on Sunday alcohol sales have conflicting positions on the scope of a county referendum’s impact. According to media reports, some referendums were held with the understanding that temporary permits would be authorized in unincorporated areas only while at least one county referendum was held with the understanding that such permits would be available countywide. See Charles Duncan, *The Mimosas Won. Voters*

*Loosen Local Sunday Alcohol Rules in Many South Carolina Counties*, The State (November 7, 2018) <https://www.thestate.com/latest-news/article221275955.html> (Darlington County referendum only applies to unincorporated areas of the county while Anderson County's referendum applies to the entire county); *Alcohol Sales on Sundays on Nov. 8 Ballot Across the Upstate*, WYFF4 (October 28, 2016) <https://www.wyff4.com/article/alcohol-sales-on-sundays-on-nov-8-ballot-across-the-upstate/7666800>, (Greenville County referendum will apply only in unincorporated parts of the county because all of the cities in the county previously held favorable referendums); John Clayton, *County Approves Sunday Alcohol Sales*, Laurens County Advertiser (November 6, 2018) <https://www.laurenscountyadvertiser.net/2018/11/06/county-approves-sunday-alcohol-sales/> (Laurens County referendum to apply only to unincorporated parts of the county and "unincorporated areas of Laurens County" was added to the ballot question "to make the referendum legal").

Finally, we are aware that the Aiken County Council may believe that a favorable referendum on this issue should apply only to the unincorporated parts of the county because the incorporated portions of the county are themselves sovereign governments entitled to home rule. It is true that a county cannot enforce its own ordinances inside corporate municipal limits without some agreement with the municipality. *Op. S.C. Att'y Gen.*, 1996 WL 452786 at \*2 (May 20, 1996). However, if a county council passes an ordinance to hold a referendum pursuant to Section 61-6-2010, it does so not as part of its general authority to pass local laws. Instead, it does so pursuant to the means the General Assembly has afforded local governments to pursue Sunday liquor sales so that businesses that sell alcoholic liquor drinks will be able to compete with businesses in neighboring jurisdictions in which Sunday liquor sales by the drink are possible. We do not believe a county referendum on this issue or the ordinance calling for the same constitutes a violation of home rule. This is not a matter of the county attempting to enforce its own legislation on the municipalities in the county. It is a matter of the county exercising the authority given to it by the General Assembly.

Should Aiken County Council have doubt about whether to follow this advisory opinion, we encourage Council to direct your county attorney to refile the declaratory judgment action and to name the Department of Revenue as a party. Additionally, you may wish to contact your legislative delegation about your concerns. Although most counties have already held referendums pursuant on this issue some have not and it may assist any remaining counties interested in holding a referendum if the General Assembly were to clarify its intentions and the language of the statute.

Turning to the question of who can vote in the county referendum, it is the opinion of this office that all qualified electors of the county, not just those residing in unincorporated areas of the county, may vote. Section 61-6-2010 (C)(1), which notes that a permit is only authorized "in those counties or municipalities where a majority of the qualified electors voting in a referendum vote in favor of the issuance of the permit." Had the General Assembly intended to restrict the referendum to voters residing in unincorporated areas of the county, it certainly could have done so. This office reached the same conclusion in a 1990 opinion addressing nearly identical language from Section 61-5-180, the predecessor statute to Section 61-6-2010. *Op. S.C. Att'y Gen.*, 1990

The Honorable Gary Bunker  
Page 8  
August 14, 2026

WL 482426. We were asked if qualified electors would be permitted to vote in a county referendum if the municipality in which they resided had previously held a favorable referendum on the same issue. Id. Answering in the affirmative, our opinion reasoned “the General Assembly did not express its intention here to disenfranchise those county residents who reside in the incorporated areas of the county, nor is there any language that would suggest that the General Assembly intends to create election units that represent only portions of the county.” Id. at \*2. We stand by this reasoning.

### Conclusion

If a county referendum is held on the question of whether temporary permits may be issued for the possession, sale, and consumption of alcoholic liquor by the drink on Sundays and it passes, the temporary permits may be issued anywhere in the county, not just unincorporated areas. To read Section 61-6-2010 differently would render Subsections (D) and (F) meaningless. This conclusion is consistent with the information your county’s attorney received from the Department of Revenue, the agency assigned with the task of issuing the temporary permits made possible by the statute. We also hold the opinion that all qualified electors of the county, including those who reside within the incorporated parts of the county, should be given the opportunity to participate in the referendum. Our opinion is of course advisory only and we acknowledge the circuitous and opaque nature of Section 61-6-2010. Should the Aiken County Council disagree or be hesitant to proceed with a referendum with countywide impact, we recommend you instruct your county attorney to refile your declaratory judgment action and add the Department of Revenue as a party. Additionally, we encourage the General Assembly to revisit the statute to make certain its intentions and directions are clear.

Sincerely,



Sabrina C. Todd  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General Emeritus