



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

August 20, 2004

Samuel W. Howell, IV, Esquire
General Counsel, Board of Elections and
Voter Registration For Charleston County
Post Office Box 22495
Charleston, South Carolina 29413

Dear Mr. Howell:

In a letter to this office you referenced that a question has arisen with regard to the sales tax referendum for Charleston County which is being held pursuant to S.C. Code Ann. Sections 4-37-10 et seq. (Supp. 2003). Such provisions provide counties with an optional method to finance transportation facilities. In particular, you note concerns that certain language in Governor Sanford's Executive Order regarding the Sales Tax referendum which orders a new election imposes additional duties, responsibilities and authority on the Board of Elections and Voter Registration ("the Board") regarding the ballot question. You state that concerns have been raised by the Board that it has duties and responsibilities to insure that the ballot question conforms to state law and that it is the Board which determines what language may go on the ballot.

You indicate that Charleston County Council enacted an ordinance ordering a new sales tax referendum and submitted the form of the ballot question to the Board. S.C. Code Ann. Section 4-37-30(A)(2) (Supp. 2003) requires that the ballot question "read substantially" as provided by that provision. As you state in your letter, in its decision in Douan et al. v. Charleston County Election Commission et al., 357 S.C. 601, 614, 594 S.E.2d 261, 268 (2003) at footnote 9, the State Supreme Court determined that:

The County and State Election Commissions did not have a stake in this Referendum because their duties are ministerial in nature. "Neither the State Commission nor County Commission has any unilateral authority to shorten or change the wording of a question to fit a particular ballot form. State and County Commission, subject to statutory guidance, control the form of the ballot only as it pertains to physical characteristics of the ballot such as space limitations and the arrangement of names and issues.

Consistent with such, you have stated that it is your opinion that County Council, not the Board, is responsible for the ballot question.

Mr. Howell
Page 2
August 20, 2004

This office is in agreement with your conclusion that the Board has no authority to change the wording of a ballot question submitted to the Board by the County Council. Such is consistent with the determination in Douan. Moreover, we agree with your conclusion that nothing in the Governor's Executive Order changes that conclusion.

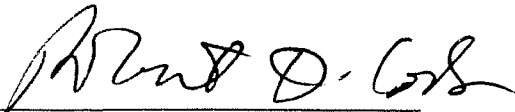
With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General