



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

CHARLIE CONDON  
ATTORNEY GENERAL

February 23, 2001

The Honorable Joe Wilson  
Senator, District No. 23  
P.O. Box 142  
Columbia, South Carolina 29202

Dear Senator Wilson,

By your letter of February 9, 2001, you have requested an opinion of this Office concerning weighted voting. You ask if "magistrates must be approved by a weighted majority of the County Senatorial Delegation in which they serve before being sent for the advice and consent of the full Senate?"

By way of background, "weighted voting" was implemented as an interim remedy as a result of the Fourth Circuit Court of Appeals striking down as unconstitutional the prior voting allocations of South Carolina's legislative delegation system in Vander Linden v. Hodges, 193 F.3d 268 (1999). The legislative delegations for each county are comprised of all members whose districts contain property within the county. Under the prior system, all members of the delegation, regardless of the actual number of constituents represented, had equal voting power in actions of the delegation. The Fourth Circuit held that this system violated the one person, one vote rule of the equal protection clause by diluting the votes of the constituents in more densely populated constituent areas. See Vander Linden at 281. The Court in Vander Linden granted the South Carolina General Assembly some time to construct an appropriate remedy. After much dispute and many revisions to pending legislation in the General Assembly, in May of 2000 a South Carolina District Court imposed an interim remedy until the General Assembly could pass appropriate legislation, subject to the court's approval.

United States District Judge Patrick Michael Duffy's order of June 22, 2000 provides the interim guidelines for weighted voting. One of the contentious points between the House and Senate involved the scope of the weighted voting to delegation areas. The Senate favored the imposition of weighted voting for various kinds of governmental entities. The House objected to the Senate's version because it extended beyond county legislative delegations. In response, Judge Duffy held that "any remedy imposed by this court will be limited to curing the 'one person, one vote' defect in the method of electing county legislative delegations." ORDER at 7. The Court further adopted

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the formula set forth in Senate Bill 3811 (C), stating, "Bill 3811 subsection (C) also provides a method of weighing the votes for both the single branch delegation and the bicameral legislative delegation." Order at 9. In the order Judge Duffy included Bill 3811(C), which states, in part:

(4) to determine the weight of the vote for each member of the Senate and the House of Representatives, when voting as a legislative delegation, each calculation to the fourth decimal place in items (1) and (2) must be multiplied by one hundred;

(5) to determine the weight of the vote for each member of the Senate or the House of Representatives, when voting as a single branch delegation, each calculation to the fourth decimal place in either item (1) or (2) must be multiplied by two hundred;

ORDER at 4.

Thus, in accordance with the guidelines established by Judge Duffy's order, any act of a legislative delegation, whether by single branch or bicameral, must apply the formula for weighted voting referenced above. Because the Senatorial Delegation votes to approve the magistrates offered for appointment by the Governor, it is the opinion of this Office that weighted voting must be used.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific question asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I remain

Very truly yours,



Susannah Cole  
Assistant Attorney General