

The State of South Carolina



Office of the Attorney General

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October 26, 1994

Larry L. Yonce, Chairman
The Agriculture Commission of South Carolina
Post Office Box 11280
Columbia, South Carolina 29211-1280

Dear Mr. Yonce:

Attorney General Medlock has referred your recent letter to me for reply. You have stated that an issue was raised during a recent Pork Board election regarding an unwritten requirement regarding elections to this Board. This unwritten rule requires full - slate voting; ie, that a voter vote for all seats that are open or the ballot will not be counted. You have inquired if this procedure is permissible.

Full slate requirements in general elections have been questioned primarily insofar as they serve as a bar to minority persons seeking to cast a vote for less than the entire slate of candidates. As it was stated in Wallace v. House, 515 F.2d 619, 624 (5th Cir. 1975) reh & ren en banc denied

... another severe obstacle to all minority voting interests, racial and otherwise ... [is] 'anti-single shot' or 'full slate' requirement. ... This provision forces a voter in an at-large election to vote for as many candidates as there are places to be filled, on pain of having his ballot invalidated as to all of the at-large positions for that particular office. Where a minority group does not boast a full slate of candidates, the anti-single shot law requires supporters of the minority group to cast ballots for at least some of the group's opponents, thereby rendering the minority's task that much more difficult.

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In 1972 the full slate requirement in South Carolina was struck down in the case of Stevenson v. West, Civil Action No. 72-45, unfiled Op dated April 7, 1972. The general election law was thereafter amended to conform to the Federal Court Order. See, S.C. Code Ann. §7-13-1120 (1976). The general election law, therefore, does not allow full slate voting. However, general election law does not necessarily control internal board elections. See S.C. Code Ann. §7-1-20 (1)(2)(1976).

Statutes and regulations have established the procedure to be followed for the election of members to the Pork Board. S.C. Code Ann. §46-17-220 (1976) and Regulations 5-91. It does not appear that a full slate requirement is set out in either the statutes or regulations. See Reg 5-91 (b) (d). The requirement apparently is actually only a result of custom.

As the election to the Pork Board is made by an internal election among pork board members, whether the South Carolina election law regarding full slate voting would be applicable is not clear. However, if the requirement is maintained it would most probably have to meet the same requirement of compelling state interest that the Court applied in Stevenson to the full-slate law. It may be that if the Board chooses to maintain this requirement that they may want to seek a declaratory judgment as to the propriety of the requirement.


Sincerely,


Treva G. Ashworth
Deputy Attorney General

TGA:bvc

REVIEWED AND APPROVED BY:


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