



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

August 14, 1995

Jeff M. Anderson, Esquire
Lexington County Attorney
Post Office Box 489
Lexington, South Carolina 29071

RE: Informal Opinion

Dear Mr. Anderson:

As Lexington County Attorney, you had requested on behalf of Lexington County Council that I review Op. Att'y Gen. No. 93-45 (copy enclosed) to determine whether the conclusion reached therein may have changed in the years since the opinion was issued. In that opinion, it was concluded that a county council did not have authority to set term limits for its members, that instead such authority rested with the General Assembly.

Once issued, an opinion of this Office is presumed to be correct until it has been shown to be clearly erroneous. Only after such opinion is shown to be clearly erroneous will the opinion be overruled or superseded. Occasionally a judicial decision or an amendment to relevant statutory or constitutional provisions will result in an opinion being deemed "clearly erroneous" and thus superseded or overruled.

I have reviewed the opinion in question and have not found that the law cited therein has been amended or superseded by judicial decision or act of the General Assembly. I observe too that since the 1993 opinion was rendered by this Office, no legislative changes have been forthcoming. It is well recognized that the absence of any legislative amendment following the issuance of an opinion of the Attorney General strongly suggests that the views expressed therein were consistent with legislative intent. Scheff v. Township of Maple Shade, 149 N.J. Super. 448, 374 A.2d 43 (1977); Op. Att'y Gen. No. 84-69. Indeed, the General Assembly has on occasion acted swiftly in amending

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statutes following the issuance of an opinion by this Office; but such amendment has not been forthcoming in this instance.

Therefore, I am of the opinion that the authority cited in Op. Att'y Gen. No. 93-45 still represents the current state of the law in this State. I am further of the opinion that the conclusions reached in that opinion are not clearly erroneous. I can determine no basis at this time to change the conclusions of that opinion.

This letter is an informal opinion only. It has been written by a designated Senior Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion. I trust that the foregoing has satisfactorily responded to your inquiry and that you will advise if clarification or additional assistance should be necessary.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Senior Assistant Attorney General

Enclosure