



The State of South Carolina  
**OFFICE OF THE ATTORNEY GENERAL**

CHARLES MOLONY CONDON  
ATTORNEY GENERAL

June 2, 1995

John M. Milling, Esquire  
Post Office Drawer 519  
Darlington, South Carolina 29532

RE: Informal Opinion

Dear Mr. Milling:

By your letter of May 16, 1995, to Attorney General Condon, you sought an opinion as to the notice requirements for municipal elections. Citing the differing language in S.C. Code Ann. §5-15-50 and §7-13-35 (1994 Cum. Supp.), you have asked whether state law exempting municipal elections from §7-13-35 applies only to giving two notices, or whether it also applies to at least sixty (60) days' notice being given before a municipal election.

Section 7-13-35

Section 7-13-35, as most recently amended by Act No. 253 of 1992, provides:

The authority charged by law with conducting an election shall publish two notices of general, special, and primary elections held in the county, except municipal elections, in a newspaper of general circulation in the county. Included in each notice must be a reminder of the last day persons may register to be eligible to vote in the election for which notice is given, notification of the date, time, and location of the hearing on ballots challenged in the election, a list of the precincts involved in the election, the location of the polling places in each of the precincts, and notification that the process of examining the return-addressed envelopes containing absentee ballots will begin at 2:00 p.m. on election day. The first notice must appear not later than sixty days before the election and the second notice must appear not later than two weeks after the first notice.

John M. Milling, Esquire

Page 2

June 2, 1995

Prior to amendment in 1992, §7-13-35 provided as follows:

The authority charged by law with conducting an election shall publish two notices of general, special, and primary elections held in the county or municipality in a newspaper of general circulation in the county or municipality. Included in each notice must be a reminder of the last day persons may register to be eligible to vote in the election for which notice is given, notification of the date, time, and location of the hearing on ballots challenged in the election, a list of the precincts involved in the election, and the location of the polling places in each of the precincts, and notification that the process of examining the return-addressed envelopes containing absentee ballots will begin at 2:00 p.m. on election day. The first notice must appear not later than sixty days before the election and the second notice must appear not later than two weeks after the first notice.

The 1992 amendment to §7-13-35 appears to have removed municipalities from the requirements of §7-13-35. Prior to amendment, the authority charged by law with conducting general, special, and primary elections in a municipality was required to publish two notices containing the specified information at the specified times in a newspaper of general circulation in the county. The 1992 amendment appears to have made §7-13-35 applicable to elections in the county other than municipal elections by requiring that the authority charged by law with conducting general, special, and primary elections in the county other than municipal elections provide the notice as specified in the statute.

#### Section 5-15-50

Section 5-15-50, codified in the statutes governing the conduct of municipal elections, provides as follows:

Each municipal governing body may by ordinance establish municipal ward lines and the time for general and special elections within the municipality. Public notice of the elections shall be given at least sixty days prior to such elections.

Since municipal elections appear to have been removed from the purview of §7-13-35, I am of the opinion that §5-15-50 contains the only notice requirements for municipal elections at this time. It is observed that "public notice" rather than notice by publication in a newspaper of general circulation in the county is all that is required, such "public notice" required to be given at least sixty days prior to the election.

John M. Milling, Esquire  
Page 3  
June 2, 1995

As a practical matter, and to provide as much information as possible to prospective candidates and voters, a municipal election commission (or county election commission acting pursuant to S.C. Code Ann. §5-15-145) could certainly use §7-13-35 as a guideline to determine what information could or should be disseminated to the public about the upcoming municipal election. A municipal election commission would not be precluded from following §7-13-35 if it wished to follow that statute, as long as §5-15-50 was complied with, as well.

In conclusion, I am of the opinion that, due to the 1992 amendment to §7-13-35, now §5-15-50 is the applicable statute by which a municipal election commission is required to provide notice of upcoming municipal elections. Section 5-15-50 requires that only one notice, at least sixty days prior to the election, be given. A municipal election commission could use §7-13-35 as a guideline for content of the notice required to be given pursuant to §5-15-50.

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 it 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