

## The State of South Carolina



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July 20, 1990

The Honorable D. N. Holt, Jr., Chairman  
Charleston County Joint Legislative Delegation  
Room 317-A  
2 Courthouse Square  
Charleston, South Carolina 29401

Dear Representative Holt:

By your letter of June 11, 1990 (received by our Office on July 16, 1990), you have asked for the opinion of this Office as to what constitutes a majority when voting on appointments. Currently the Charleston County Legislative Delegation is composed of sixteen members: five Senators and eleven members of the House of Representatives. You wish to know what number would constitute a majority in the Senate and House memberships. Also, you ask, if only eleven members were present for voting on an appointment, what number would constitute a majority.

At the outset, we would first advise that, for any specific appointment, the appropriate enabling legislation be consulted. A statute may require that a majority of the delegation vote favorably, or that a majority of those members present at a meeting vote favorably on an individual, for examples. No one statute is interpreted herein as you have not expressed concern about a particular statute or appointment; however, the delegation should be aware that statutory variations could exist.

According to Robert's Rules of Order Newly Revised, § 43 at page 338,

the basic requirement for approval of an action or choice by a deliberative assembly, except where a rule provides otherwise, is a majority vote. The word majority means "more than

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half"; and when the term majority vote is used without qualification ... it means more than half of the votes cast by persons legally entitled to vote, excluding blanks or abstentions, at a regularly or properly called meeting at which a quorum is present.

Thus, by definition, the term "majority" would mean "more than half."

In calculating the number necessary to comprise the majority, the resulting number often contains a fraction. The general rule in such a situation is expressed in 4 McQuillin, Municipal Corporations, § 13.31a:

If the required percentage of the members of a ... body consists in a certain number of whole votes and a fraction, it is necessary to count the fraction as a whole vote even though the result is a greater percentage of the body than would be the case if the ... body were equally divisible by such percentage into whole numbers.

See also Robert's Rules, § 43; applied in Poore v. Gerrard, 271 S.C. 1, 244 S.E.2d 510 (1978) and in Bonney v. Smith, 194 Okla. 106, 147 P.2d 771 (1944).

Applying these principles to the membership of the delegation would yield the following results: three Senators of the five would constitute a majority; six of the eleven Representatives would be a majority of that group; and nine of the sixteen members of the entire delegation would constitute a majority of that body.

As to your last question, a majority of eleven members present and voting would be six members. A different result might be necessary if the enabling legislation required a majority vote of the entire delegation, in which case nine of the eleven members must vote favorably. As stated earlier, the specific requirements of a particular statute must be taken into account to determine exactly how many votes would be needed for a specific appointment.

Enclosed please find copies of opinions previously rendered by this Office on July 11, 1986 and January 17, 1985 on questions which have previously arisen as to calculation of the majority of a body. If these opinions and the principles described above are not sufficiently responsive, please advise.

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With kindest regards, I am

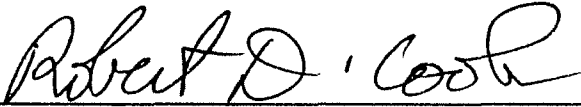
Sincerely,

*Patricia D. Petway*  
Patricia D. Petway  
Assistant Attorney General

PDP/an

Enclosures

REVIEWED AND APPROVED BY:

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Robert D. Cook  
Executive Assistant for Opinions