

The State of South Carolina



Office of the Attorney General

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March 11, 1991

The Honorable Jennings G. McAbee
Member, House of Representatives
522D Blatt Building
Columbia, South Carolina 29211

Dear Representative McAbee:

In a letter to this Office you indicated that Mr. David Morrah is unable to obtain a special license plate as magistrate because he does not have trial powers.

According to the State Court Administration office, two individuals were appointed magistrates for McCormick County in 1990, namely, Jake Trantham and June Davis. Such appointments were consistent with the provisions of Section 22-1-10(A) of the Code which states in part:

The Governor, by and with the advice and consent of the Senate, may appoint magistrates in each county of the State who shall hold their office for the term of four years and until their successors are appointed and qualified. Magistrates serving the counties of ... McCormick ... shall serve terms of four years commencing May 1, 1990....

Formerly, pursuant to Act No. 819 of 1966, three magistrates for McCormick County were provided. Act No. 248 of 1983 provided for an additional magisterial position. However, pursuant to Section 22-8-40(B) of the Code, a provision of Act No. 678 of 1988, a ratio formula was established by the General Assembly to be utilized in determining the number of magistrates for each county. Also, pursuant to Section 22-8-40(A), counties were given the authority to classify magistrates as part-time or full-time. In determining numbers of magistrates, pursuant to Section 22-8-40(C), four part-time magistrates are equivalent to one full-time magistrate. An

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opinion of this Office dated March 6, 1990, indicated that special legislation for individual counties which provided for certain numbers of magistrates was probably superseded or impliedly repealed by Act No. 678.

Referencing the above, it appears that following the enactment of Act No. 678, three factors in particular are relevant in considering magisterial offices in individual counties:

1. the ratio formula established by Section 22-8-40;
2. the Governor's authority to appoint magistrates by and with the advice and consent of the Senate;
3. a county's authority to classify magistrates as full-time or part-time.

It is my understanding that consistent with the above criteria, two individuals were appointed to magisterial positions in McCormick County in 1990. Mr. Morrah was not reappointed. Therefore, I am unaware of any basis to conclude that he would be entitled to a special license plate as magistrate.

With kind regards, I am

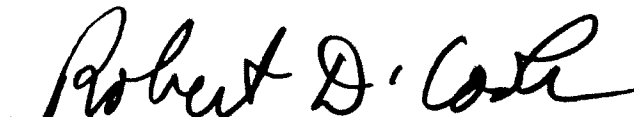
Very truly yours,



Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:



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