The State of South Carolina

Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3680
FACSIMILE: 803-253-6283

July 16, 1992

John M. Milling, Esquire
P. O. Drawer 519
Darlington, South Carolina   29532
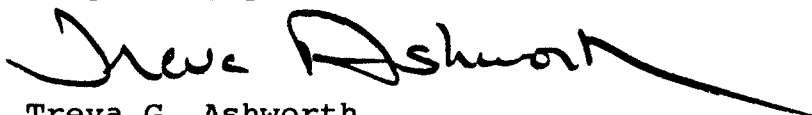
Dear Mr. Milling:

Attorney General Medlock has referred your recent letter to me for reply. You have stated that on behalf of the Darlington County School District which you represent, you are requesting an opinion as to when the candidates for the School Board must file for office. You have stated that under existing law the candidates filed a petition by August 1; however, an Act (H.B. 4436, R395) introduced this year would change the filing date to September 1. You have inquired what filing date should be followed as you understood the 1992 Act had not yet been precleared by the Justice Department.

I have checked the 1992 legislation, copies of which are attached. House Bill 4436 bearing ratification number 395 was amended by a later Act, R627. This second Act, R627, changed the date of implementation of the provisions from January 1, 1993, as set out in the first Act, to January 1, 1995. It is not clear from the amendment if the Legislature actually intended the filing date to change in the 1992 or in the 1994 elections. (See Section 5 of R395 and Section 4 of R627). However it is unnecessary to resolve that question at this time in that neither Act has been submitted or precleared by the Justice Department. A change in the law cannot be implemented unless and until it is precleared. NAACP v. Hampton County Election Commission, 470 U.S. 166 (1985); 42 U.S.C. 1973.

John M. Milling, Esquire
July 16, 1992
Page 2

Therefore, at the present date the existing law and its filing requirements is still in effect.
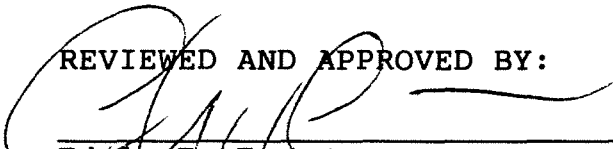
Very truly yours,

Treva G. Ashworth
Senior Assistant Attorney General

TGA:bvc
Attachments

REVIEWED AND APPROVED BY:

Edwin E. Evans
Chief Deputy Attorney General

Robert D. Cook
Executive Assistant for Opinions