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The State of South Carolina



Office of the Attorney General

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July 16, 1985

Vance B. Drawdy, Esquire
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Attorneys at Law
307 Pettigru Street
Greenville, South Carolina 29603

Dear Vance:

You have requested the advice of this office as to the effect of §59-19-315 of the Code of Laws of South Carolina, 1976 (R.103, 1985) on local legislation concerning the Greenville County School District Board of Trustees, Act 544, Acts and Joint Resolutions of South Carolina, 1982. Section 59-19-315 provides that "...[t]he term of office of every elected trustee of a school district must commence one week following the certification of his election." (Emphasis added). Act 544 provides that "...[t]he term of office of each trustee shall be four years to commence on the first day of January next following the election."

The following rule of statutory construction is useful here:

"Where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way, the two should be harmonized if possible; but if there is any conflict the latter will prevail, regardless of whether it was passed prior to the general statute, unless it appears that the legislature intended to make the general act controlling. Sutherland Statutory Construction, Vol. 2A §51.05 (4th Ed.)."

Here the use of the word "every" and the mandatory language in the use of the word "must" indicates that the legislature intended that the general provisions of §59-19-315 would be controlling with respect to Act 544. Sutherland Statutory Construction, Vol. 2A §57.03. The effect of the change is to alter the time of commencement of the four year term from the first day of January

REQUEST LETTER

Alway 1714

*Dennis to 85-28
P191*

Vance B. Drawdy, Esquire
July 16, 1985
Page

following the election to one week following the certification of the election. The effective date of the legislation was upon the Governor's signature, and the legislature indicated no intention to postpone application. Therefore, this change should apply so as to reduce the length of the terms of the incumbents so that their terms will end when the next elected trustees take office one week after certification. "There is no constitutional bar against the mere shortening of the term of an existing statutory office by legislation aimed at the office rather than at its incumbent" (Michaelis v. City of Long Beach, 46 A.D.2d 772, 360 NYS2d 473 (1974); see also, 63A Am.Jur.2nd Public Officers and Employees, Section 35); however, this change constitutes one that should be reviewed under the Voting Rights Act. Therefore, the Justice Department should be contacted about this change.

In conclusion, §59-19-315 appears to be controlling as to the commencement of the terms of school district trustees in Greenville County. This statute should have the effect of shortening the terms of existing trustees in Greenville County. We recommend that you contact the Justice Department concerning this change to determine whether voting rights review will be required.

If you have any questions or need additional assistance, please do not hesitate to contact me.

Yours very truly,



J. Emory Smith, Jr.
Assistant Attorney General

JESjr/srcj

cc: Treva G. Ashworth, Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
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