

1983 WL 181761 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 18, 1983

*1 James A. Bell, Esquire
Attorney at Law
Post Office Box 905
St. George, South Carolina 29477

Dear Jim:

I am in receipt of your letter in which you stated that Dorchester County is considering creating a special purpose district under the provisions of SOUTH CAROLINA CODE OF LAWS, 1976, as amended, Section 4-9-30(5)(b). You have asked the following questions regarding this procedure:

(1) Is it necessary for individuals who sign the petition to create the district to provide their voter registration numbers since we are attempting to obtain 15% of the freeholders?

(2) What address should the freeholder give, i.e., his street address, tax map number, etc.?

There is no specific law governing petition requirements other than the statutory requirements set out in [Section 7-11-80 of the CODE](#) for the nomination of candidates by petition. It has been the prior opinion of this Office that these requirements should govern, as much as possible, all petitions. Therefore, as there are no specific requirements as to the petition for a special purpose district, it would appear to be advisable to follow whenever practical the requirements of [Section 7-11-80](#) and add to it those requirements the county deems necessary to facilitate determining if the petition is valid.

(3) How is an individual permitted to vote? Can he choose whether to vote as an elector or freeholder?

It is possible that the requirement of a freeholder election would be considered to be unconstitutional by a court of law. The requirements of Section 4-9-30(5)(b) requiring a majority vote of the freeholders and the electorate is very similar to the provisions of Section 5-3-180 which were found to be unconstitutional. [Heyward v. Clay, 573 F. 2d 187 \(1977\)](#). I am enclosing a prior letter of July 15, 1981, by James M. Holly to James F. Hendrix on this question. Only a court of competent jurisdiction could definitely rule on this question.

(4) How can an election manager determine whether or not an individual is a freeholder when he can not provide evidence that he has valid voter registration within the boundaries of the district and claims to own property within the district?

If a freeholder election is held, our Office has previously held that a person appearing to vote as a freeholder should be required to produce such reasonable identification as the County Election Commission may see fit in its discretion to require.

Sincerely,

Treva G. Ashworth
Senior Assistant Attorney General

ATTACHMENT

February 18, 1983

Honorable Virginia T. Whitmire

Greenville County Treasurer

Post Office Box 10144, F.S.

Greenville, South Carolina 29603

Dear Mrs. Whitmire:

Reference is to your letter of February 4, 1983, concerning Act 647, Acts of 1954. That Act transferred the duties of your office for the collection of taxes to the office of the tax collector. The Act was legislation applicable only to Greenville County. Your inquiry is whether this legislation was repealed by Act 283, Acts of 1975. (Home Rule)

*2 The 1975 Act provides in part that:

'All operations, agencies and offices of county government, appropriations and laws of related thereto in effect on the date the change in form becomes effective shall remain in full force and effect until otherwise implemented by ordinance of the council pursuant to this act. Provided, however, that county councils shall not enact ordinances in conflict with existing law relating to their respective counties and all such laws shall remain in full force and effect until repealed by the General Assembly, or until January 1, 1980 * * *.'

Settled rules of statutory construction control when considering your inquiry. All provisions of the section are to be considered and given effect.

'In determining the meaning of a statute, it is the duty of the Supreme Court to give force and effect to all parts of the statute.'
[State ex rel. McLeod v. Nessler, 273 S.C. 371, 256 S.E.2d 419.](#)

Under such, all the quoted language must be given effect. The 1954 Act therefore' remains in force and effect until amended or modified by the county council. If such were not the case, then the language that 'all operations, agencies and offices * * * and laws related thereto in effect * * * shall remain in full force and effect * * *' would be meaningless.

The provision of the 1954 Act that transferred the collection duties remains in effect until (1) the county council returns the duties to your office, or (2) the 1954 Act is declared unconstitutional by a court of competent jurisdiction.

Yours very truly,

Joe L. Allen, Jr.
Deputy Attorney General

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