

1984 WL 249861 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 19, 1984

*1 Joseph G. Wright, III, Esquire
Anderson County Attorney
Post Office Drawer 1905
Anderson, South Carolina 29622

Dear Mr. Wright:

Attorney General Medlock has referred your inquiry of March 14, 1984, to me for response. You have asked whether, under the facts presented and considering [Section 4-9-10\(c\) of the Code of Laws of South Carolina \(1983 Cum. Supp.\)](#), Anderson County may hold a referendum in November 1984 for the purpose of increasing the number of members on County Council from five (5) to seven (7). It is the opinion of this Office that such a referendum may not be held until November 1986.

By referendum on January 27, 1976, Anderson County voters selected the 'council-supervisor' form of government under the Home Rule Act. By Act No. 783, 1976 Acts and Joint Resolutions, the General Assembly determined that County Council would be composed of five members. In November 1982, Anderson County voters approved a referendum to change the form of government to 'council-administrator' but failed to approve a referendum which would have changed the composition of County Council from five to nine members. Thus, presently, Anderson County Council is composed of five members representing single-member districts who serve non-staggered terms.

Under consideration is a referendum to increase the size of council from five to seven members. Whether the council members would be elected at-large or by single-member districts has not yet been determined, nor whether all members would serve the same or staggered terms.

A portion of the Home Rule Act, codified as [Section 4-9-10\(c\) of the Code](#), states:

. . . No change to an alternate form of government, different number of council members, or method of election of council including the chairman as a result of a referendum shall become effective unless such proposed form receives a favorable vote of a majority of those persons voting in a referendum. In any referendum, the question voted upon, whether it be to change the form of government, number of council members, or methods of election, shall give the qualified electors an alternative to retain the existing form of government, number of council members, or methods of election, shall give the qualified electors an alternative to retain the existing form of government, number of council members, or method of election or change to one other designated form, number, or method of election. After a referendum has been held and whether or not a change in the form results therefrom, no additional referendums shall be held for a period of four years. . . . [Emphasis added.]

It cannot be disputed that Anderson County held a referendum in November 1982 which did result in a change in the form of government. By statute, then, Anderson County would not be permitted to hold another referendum until November 1986.

This Opinion is consistent with an Opinion issued by Attorney General Medlock on March 21, 1983 (copy enclosed). Voters in another county approved a referendum to reduce the size of county council, but the Department of Justice failed to approve the plan under their Voting Rights Act review. That Opinion stated, 'The language of this [section \[4-9-10\(c\)\]](#) would appear to prohibit a new referendum being held for a period of four years.' The same reasoning would apply to the Anderson County situation as outlined above and in your letter.

*2 We trust that this letter will offer guidance to the Anderson County Council. If we may clarify or elaborate on any matter contained herein, please advise us.

Sincerely,

Particia D. Petwey
Staff Attorney

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