

1981 WL 157843 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 30, 1981

*1 Honorable Chris Pracht
Representative
District No. 6
Post Office Box 574
Anderson, South Carolina 29622

Dear Representative Pracht:

Mr. McLeod has referred your recent letter to me for reply. I am sorry I have not had an opportunity to respond to your letter earlier, but I did not receive it until June 16 and was unable to reply until now because I was ill the following week.

It is my understanding that you are inquiring if all persons representing Anderson County would have votes equal to each other for purposes of the legislative delegation for Anderson County. The question has apparently arisen because of the disparity in actual numbers of persons represented. For example, the representative of District 2 under the proposed plan will only represent four hundred (400) persons in Anderson County, whereas the representative of District 10 will represent over twenty-six thousand (26,000) persons in Anderson County.

A legislative delegation would constitute all Senators and House of Representative members who represent any part of a county. (See enclosed November 18, 1966 letter of Mr. McLeod to Mr. Harmon, 1967 Attorney General's Opinion, Opinion No. 2227.) Each person elected to represent a portion of Anderson County would therefore be a part of the Anderson County Legislative Delegation and would have votes equal to each other.

You have also inquired as to how votes would be counted in matters of appointees to boards and commissions. Generally what constitutes a majority vote in a legislative delegation would be determined pursuant to the provisions and guidelines of South Carolina Code of Laws, 1976, Section 2-7-40. However, from the information you have given me it would appear that, under the new plan, Anderson County would have more than five members of the House of Representatives; and, therefore, the provision of Section 2-7-40 would not apply, as this section expressly provides that it will '. . . not apply to any county having more than five members of the House of Representatives.' Without these statutory guidelines it would appear that a decision of the legislative delegation would be made by a simple majority vote, unless the statute governing the board or commission sets out a specific requisite vote for that office that must be taken by the legislative delegation. For example, in the two offices that you mention in your letter, the Highway Commission and the State Board of Education both require a majority vote of the members of the county legislative delegations from the highway district to elect a highway commissioner and from the judicial district for a State Board of Education member. South Carolina Code of Laws, 1976, Sections 57-3-220 and 59-5-10. A majority vote would be determined by a majority of the members of the legislative delegation voting in favor or opposition to a proposition or proposed appointee to an office.

Very truly yours,

Treva G. Ashworth

*2 Senior Assistant Attorney General

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