

1981 WL 158043 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 12, 1981

*1 Honorable Francis X. Archibald
Member, House of Representatives
Room 308-B Blatt Building
Columbia, South Carolina 29211

Dear Representative Archibald:

In response to your request for an opinion from this Office regarding the provisions of [Section 5-5-20, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, I can advise you as follows:

1. [Section 5-5-60, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, provides in part:

Upon . . . any change to one of the alternate forms of government, all members of the existing governing body shall continue to serve their elected terms and until their successors are elected and qualify.

Accordingly, the municipal council and mayor serving at the time a change in the form of government is approved continue to serve out their terms. I would also note that the United States Department of Justice has taken the position that any change in the form of municipal government must be submitted to it for pre-clearance pursuant to Section 5 of the 1965 Voting Rights Act before it can be implemented.

2. While there is no precise authority to rely on with respect to whether or not petition signatures gathered in 1980 are still valid in 1981 [[cf.](#), [§ 5-15-30, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended: ‘. . . if fifteen percent of the registered municipal voters present to the municipal governing body a duly executed petition on which none of the signatures are more than six months old, . . .’ (emphasis added)], you may have a problem with petitioners who may have been eligible to sign in 1980 but may no longer be eligible in 1981 because they are no longer registered voters or no longer residents of Hanahan. In my opinion, the safest way to proceed is to collect the requisite number of petitioners again.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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