

1982 WL 189512 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 17, 1982

*1 The Honorable B.L. Hendricks, Jr.
Chairman
Medical, Military, Public & Municipal Affairs Committee
Post Office Box 11867
Columbia, South Carolina 29211

Dear Representative Hendricks:

You have asked this office whether the election of a member of the 3M Committee to serve in the ex officio position of member on the Board of Trustees of the Medical University must be preceded by a separate consideration of the question whether to oust the chairman of this position. [Section 2-1-90, South Carolina Code](#) of Laws, 1976, as amended, provides:

Wherever a statute provides for the chairman of a standing committee of the General Assembly to be a member of a board or committee, ex officio, the members of the standing committee may elect another member of the committee to serve in lieu of the chairman.

The statutory language does not indicate or infer that a two prong process is necessary to elect another member of the committee to fill the ex officio position instead of the chairman. Thus, I would advise that a fair reading of this statute provides for but a single election.

Please be advised that I am aware of no provision [constitution, statute or house rule] that requires division of a question presented to a legislative committee, where the question involves more than one proposition. Art. III § 17 of the Constitution of South Carolina, 1895, as amended, is inapplicable, its scope extending to '[e]very act or resolution having the force of law . . .'

House Rule 8.10 provides, inter alia:

Any member may without debate, call for the division of a question, and the House may divide the question if it shall appear to comprehend the question so distinct that, one being taken away, the rest may stand entire for a decision.

This rule is not made applicable to committees of the House.¹ In any event, House Rule 8.10, while providing a procedure for division of a question, does not mandate the division. However, even in the absence of a rule giving members the right to vote separately on each distinct proposition, 'a member still has the right to submit a motion to divide a question when it contains two or more distinct propositions.' MASON'S MANUAL OF LEGISLATIVE PROCEDURE (1975) § 315, at 229.

MASON'S, § 314 at 229 provides:

Whether a proposition contains two or more subjects is a question to be decided by the presiding officer in the first instance . . .

Thus, you are advised that if a question contains two or more distinct propositions, a member of a committee may move for division, and the decision, in the first instance, belongs to the presiding officer.

As a point of guidance, MASON'S further provides that:

To be divisible, a question must include points so distinct and separate that, one of them being taken away the other will stand as a complete proposition.

Ibid. § 313, at 227.

With best wishes, I remain

Very truly yours,

*2 Edwin E. Evans

Senior Assistant Attorney General

Footnotes

- 1 As of this date, the House 3M Committee has not adopted rules of procedure for the 1983-84 session. The proposed rules provide that 'the rules of the House shall be the rules of the Committee except as otherwise provided herein.'

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