

1980 WL 120665 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 11, 1980

*1 Honorable John Drummond

Member

South Carolina Senate

State House

Columbia, South Carolina

Dear Senator Drummond:

In response to your request for an opinion from this Office concerning a change in Greenwood County's present council form of county government, I can advise you as follows:

1. [Section 4-9-10\(c\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, provides for the procedure by which a county can change by referendum from one form of county government to another but it presently does not specify the date upon which the change becomes effective. Last month's amendment to [Section 4-9-10 of the Code](#) as originally drafted would have answered that question because it provided that:

Ordinances which implement changes resulting from favorable referendum votes shall provide for the effective date of such changes and the election dates and procedure necessary to effect such changes but in no event shall the effective dates be delayed more than two years subsequent to the referendum date nor shall any council member be required to relinquish his council seat until the expiration of his elected term.

This language, however, was deleted prior to final passage. Presently, then, in the absence of any statutory authority to the contrary, my opinion is that, if Greenwood County changes from its present form of county government, the change will become effective at the expiration of the terms of the members of that County's present governing body, assuming also that the pre-clearance of the United States Justice Department pursuant to Section 5 of the 1965 Voting Rights Act is obtained.

2. In the absence of any county ordinance to the contrary, I think that the serving members of the Greenwood County Council can run for new county council positions (including supervisor) created pursuant to an approving referendum under [Section 4-9-10\(c\) of the Code](#) once those positions become effective without first resigning their present council seats.

With kind regards,

Karen LeCraft Henderson

Senior Assistant Attorney General

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