

1980 WL 120699 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1980

*1 Forrest K. Abbott, Esquire
Attorney at Law
Post Office Box 1
Cayce, South Carolina 29033

Dear Mr. Abbott:

With regard to the proposed annexation of a portion of Lexington County into Calhoun County, you have asked the opinion of this Office on two questions concerning the survey required by [§ 4-5-140, Code of Laws of South Carolina, 1979](#), Cum. Supp.. These questions are as follows:

1. Does the survey cover the entire boundary of the area proposed for annexation, or does it cover only the proposed change of boundary line between the counties?
2. Is an actual ground survey necessary where the proposed line is basically a road?

The annexation commission established by § 4-5-130 has the responsibility under [§ 4-5-140](#) to 'contract for the survey and location of the proposed change of line . . . ' [Emphasis Added] This section further provides that the contracted surveyors 'shall clearly mark the proposed change of line upon the land with due regard to all legal provisions and limitations . . . ' [Emphasis Added] Thus, [§ 4-5-140](#) expressly requires that the proposed change of line be surveyed, located, and marked upon the land. There is no mention therein of a survey of the entire boundary of the area proposed for annexation. See 1976 Op. Atty. Gen., No. 4448 [copy enclosed].

As noted above, [§ 4-5-140](#) mandates that the change of line be clearly marked upon the land. Although the measures necessary to clearly mark the change of line upon the land may be reduced where there are readily identifiable landmarks that may be utilized [see 1976 Op. Atty. Gen. which is enclosed], it is evident that the General Assembly by the aforementioned language in [§ 4-5-140](#) intended to require an actual ground survey of the proposed boundary line. See also Chapter 3, Title 4, of the 1976 Code, which indicates that most, if not all, of the established boundaries of the counties in South Carolina appear to be based upon ground surveys; and [§ 4-7-70 of the 1976 Code](#), which deals with the survey required for creation of a new county. It should be noted that a ground survey and marking of the line would be necessary to ensure that the line is preserved should the road mentioned in your question be changed.

Based on the foregoing, it is the opinion of this Office that [§ 4-5-140](#), which deals with annexations between counties, requires that an actual ground survey be conducted of a proposed change in boundary line between counties. The section does not require that the survey be made of the boundary of the entire area prosed for annexation.

Sincerely yours,

James M. Holly
State Attorney

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