

1980 S.C. Op. Atty. Gen. 104 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-53, 1980 WL 81936

Office of the Attorney General

State of South Carolina

Opinion No. 80-53

May 16, 1980

*1 Honorable John P. Gardner, Jr.
Member
House of Representatives
Darlington County
Box 167
Darlington, South Carolina 29532

Dear Jonn:

Thank you for your letter of May 14, 1980, concerning the application of Act No. 146 of 1979, which provides for mandatory adjournment of the General Assembly not later than the first Thursday in June. As noted by you, the second section of the Act provides that the legislative session 'may be extended by a concurrent resolution adopted by a two-thirds vote of both the Senate and the House of Representatives.'

You inquire whether the two-thirds vote required for extension of the session relates to the entire membership of the House or those Members present and voting.

In my opinion, the answer to your question is that the vote required has reference to the Members present and voting. The basis for this opinion is the holding of the Supreme Court in [Smith v. Jennings](#), 67 S.C. 324, in which the Court considered the specific issue involved in construing a constitutional provision applicable to the overriding of vetoes by a Governor. The decision of the Court emphasized that where the constitutional and statutory provisions require a designated majority of all of the Members elected, it has so specifically stated and where there is no such requirement, a contrary intent will be implied.

I, therefore, am of the opinion that an extension of the session under the provisions of Act No. 146 of 1979 requires a two-thirds vote of those present and voting in each House of the General Assembly.

Cordially yours,

Daniel R. McLeod
Attorney General

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