

1980 WL 120936 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 21, 1980

\*1 Mrs. Janet Palazzolo.  
Clerk  
Hampton County Election Commission  
Post Office Box 457  
Hampton, South Carolina 29924

Dear Mrs. Palazzolo:

Mr. McLeod has referred your recent letter to me. You have stated that a petition candidate for the House of Representatives in a multicounty district has filed his petition with the election commission of the two counties involved. He did not file his petition with the State Election Commission. You have inquired if the law requires his petition to be filed with the State Election Commission.

South Carolina Code of Laws, 1976, Section 7-11-70 sets out the requirements of a nominating petition. The second paragraph of this section requires that

[t]he petition shall be certified to the State Election Commission in the case of . . . multicounty district offices; with the county election commission in the case of countywide or less than countywide officers . . .

Section 7-13-350 states that

[t]he nominees in a petition . . . for multicounty district . . . (office) to be voted on in the general election . . . shall be placed upon the appropriate official ballot for the election as candidates nominated by such petition . . . by the officer, commissioners, or other authority charged by law with preparing such ballot if the names of such nominees are certified . . . by the person authorized to receive a petition when the candidate is not a party nominee, to such officer, commissioner or other authority . . . not later than twelve o'clock noon on September eighteenth . . .

These two sections, therefore, require a petition candidate in a multicounty district to file his petition with the State Election Commission. Under Section 7-13-350, the State Election Commission would then certify the petition candidate's name to the commissioners of election of the counties who will be placed on the ballot.

Therefore, if a petition candidate for the House in a multicounty district has not filed with the State Election Commission but instead filed with the county election commissions of the counties the office would represent, he would not have properly filed. However, as the petition candidate had attempted to comply with the filing procedure it may be that a court would find that he had substantially complied with the statutory requirements and allow him to be placed on the ballot.

Very truly yours,

Treva G. Ashworth  
Senior Assistant Attorney General

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