

1980 WL 120952 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 28, 1980

*1 The Honorable Lawrence H. Brinker
Representative—District No. 119
6 Oakdale Place
Charleston, South Carolina 29407

Dear Representative Brinker:

You have asked the opinion of this Office on whether a recent annexation to the City of Charleston has resulted in a change in the composition of House Districts 115 and 119. More specifically, you stated that the recent annexation brought small portions of James Island precincts 5, 6, 7, 8, 9, 10, and 11 into the City of Charleston. You further stated that the County Board of Registration has advised you that the annexed portions of those precincts are now in Charleston precinct 27. Upon checking the definitions of the House Districts, I found that James Island precincts 5, 6, 7, 8, 9 and a portion of 11 are specifically included in House District 115. James Island Precinct 10 and the remainder of Precinct 11 are included in House District 114. Charleston precinct 27 is included in House District 119. These House Districts are defined in [§ 2-1-10, Code of Laws of South Carolina, 1976](#).

[Article III, §§ 3 and 4 of the South Carolina Constitution](#) provide that the House of Representatives shall be apportioned by the General Assembly among the several counties allowing one Representative to every one hundred and twenty-fourth part of the population of the State. Apportionment of the House of Representatives according to population is also required by the Fourteenth Amendment of the United States Constitution as interpreted in [Reynolds v. Sims, 377 U.S. 533 \(1964\)](#). As will be seen by reference to [§ 2-1-10](#), the population of each of the 124 House Districts and the variation of the population of each District from the stated proportion is a part of the definition of each District. Transferring portions of these precincts from one District to another would alter the population and population variations of each District and affect its compliance with the aforementioned constitutional provisions. The General Assembly must not have intended in [§ 2-1-10](#) or any other statute to have district boundaries with their accompanying populations altered because of changes in the nomenclature of the areas used to describe the Districts. See [Bell v. Nationwide Mutual Insurance Co., 271 S.C. 24 \(1978\)](#).

In addition, our research did not reveal any statute regarding annexations, or otherwise, which empowers boards of registration or other local authorities to alter House District boundaries and populations.^{1 2} Such a change could be accomplished only by the General Assembly or the courts.

Based on the foregoing, it is the opinion of this Office that the recent annexation to the City of Charleston of certain portions of areas included in precincts on James Island would not alter the boundaries of House Districts 115 and 119 or any other House District.

Sincerely,

James M. Holly
Assistant Attorney General

Footnotes

- 1 If the annexation were construed to have altered any House District, the alteration may have to be precleared by the appropriate federal authority pursuant to the provisions of the Voting Rights Act, [42 U.S.C. § 1973c](#).

2 This opinion does not address the change effected by the Board of Registration in precinct boundaries as a result of the annexation.
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