

1979 WL 42887 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 27, 1979

*1 Honorable William Earl Knotts, Jr.
Senator
District No. 8
Gressette Building—Fifth Floor
Columbia, South Carolina

Dear Senator Knotts:

You have asked the opinion of this Office on whether the County of Aiken [hereinafter referred to as the County] is responsible for paying the costs and expenses incurred, or to be incurred, by the Board of Registration of Aiken County [hereinafter referred to as the Board] in implementing the new voting precinct boundaries which were established by Section 1 of Act No. 637 of the 1978 Acts and Joint Resolutions, page 1832.¹

Section 2 of Act 637 provides in part that:

The board of registration of Aiken County shall mail a duplicate certificate reflecting the new precinct to any person whose registration is transferred to another precinct by virtue of the provisions of this act . . .

The same specific duty also is placed with the Board by [§ 7-7-960, Code of Laws of South Carolina](#), 1976. This duty and other related general duties would be performed by the Board in implementing Act 637. See, e.g., §§ 7-3-50, 7-5-30, 7-5-190, 7-5-200, 7-5-410, Code, supra. Therefore, the costs and expenses of implementing Act 637 would arise from the performance of these duties by the Board. The question presented by you, therefore, must focus on whether the General Assembly intended for the County to be responsible for such costs and expenses.

In 1967, the county boards of registration were transformed from a periodic operation² to a full-time one by the passage of a statute which is now condified as [§ 7-5-130, Code, supra](#). Act No. 443, Section 6, 1967 Acts and Joint Resolutions, at page 637. This section requires the offices of the boards of registration to be open during the same hours as other county offices. Accompanying the enactment of this section was [§ 7-5-40](#), which directs the State to provide an annual supplement to each county to help defray the expenses of complying with [§ 7-5-130](#). Act 443, Section 4, supra. The direct implication of the language of [§ 7-5-40](#), which is the sole statute dealing with the funding of the county boards of registration, is that the counties are responsible for the expenses of maintaining the boards of registration that are not defrayed by the State supplement or that do not result from requirements of [§ 7-5-40](#). A similar implication results with regard to Act 637.

Act No. 644 of the 1978 Acts and Joint Resolutions, which provides the general appropriations of the State for the fiscal year 1978-1979, does not include an appropriation for the implementation of Act 637 or any of the numerous acts in the 1978 Acts and Joint Resolutions establishing new voting precinct boundaries. The only appropriations relevant to the county boards of registration are found in those for the State Election Commission, the those appropriations are to apply only on compensation for board members and for board expenses incurred in keeping the registration offices open during, county office hours. Act 644, supra, at pages 1924-1925; [§§ 7-5-40, 7-5-130, Code, supra](#). Therefore, the direct implication is that the General Assembly intended for the counties to be responsible for the expenses and costs arising from the implementation of acts providing for new voting precinct boundaries, including Act 637, and from the performance by the boards of other statutorily required duties. Gaffney v. Mallory, 186, S.C. 337, S.E. 840 (1938). A sampling of the past local appropriations acts for Aiken County by the

General Assembly supports this implication by reflecting that the County funds have customarily funded the Board. Act No. 651, 1971 Acts and Joint Resolutions, at page 1198. Act No. 580, 1969 Acts and Joint Resolutions, at page 987; Act No. 1433, 1968 Acts and Joint Resolutions, at page 3270; Act No. 640, 1967 Acts and Joint Resolutions, at page 1230; Act No. 1021, 1962 Acts and Joint Resolutions, at page 2395.³ The other implication that has been advanced proposes in essence that the General Assembly has intended over the years for the State to be responsible for such costs and expenses, but has repeatedly neglected to provide the-necessary appropriations therefor. Such a construction, however, is not well supported. Gaffney v. Mallory, supra.

*2 With regard to future elections in the County, it should be emphasized that any such election held after January 31, 1979, the date on which the United States Department of Justice approved Act 637 pursuant to the Voting Rights Act, as amended, must be conducted pursuant to the new precinct boundaries created thereby. The boundaries in the County existing under prior legislation were repealed by the passage of Act 637 and the subsequent approval thereof by the Department of Justice. Garey v. City of Myrtle Beach, 263 S.C. 247, 209 S.E.2d 893 (1974). Thus any future election not conducted pursuant to Act 637 would be subject to invalidation under State law, and perhaps under the Voting Rights Act.

Based on the foregoing reasons, it is the opinion of this Office that the County is responsible for the costs and expenses incurred, or to be incurred, by the Board in effecting Act 637.

Sincerely,

James M. Holly
State Attorney

Footnotes

- 1 Act 637, which amended [§ 7-7-40 of the Code of Laws of South Carolina](#), 1976, was enacted pursuant to § 7-7-10 and Article II and [Article VII, § 13 of the South Carolina Constitution](#).
- 2 See, § 23-63 of the Code, supra, 1962.
- 3 This writer also is informed and believes that the counties have traditionally been responsible for the costs and expenses incurred in implementing new precinct boundaries within the respective counties.

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