1980 WL 120822 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
August 14, 1980

*1 RE: Public Service Commission Election

Honorable Thomas E. Smith, Jr.
State Senator
512 Gressette Building
Columbia, South Carolina 29202

Dear Senator Smith:

You have requested that we advise you as to whether or not a Public Service Commissioner must be a legal resident of the congressional district from which he is elected.

Section 58-3-20 of the South Carolina Code of Laws (Cum.Supp. 1979) provides in part as follows:
[T]he Public Service Commission shall be composed of seven members to be elected by the General Assembly . . . from . . . congressional districts.

Although the statute does not expressly state that Commissioners are required to be legal residents of the districts from which they are elected, it is our opinion that it is implicit in the statute that they must be. For example, the statute provides, upon the happening of a contingency, that certain members 'be elected at-large.'

Our opinion is consistent with that which was rendered nearly thirty years ago by the then Attorney General, T. C. Callison, who was asked to interpret a provision quite similar to the one involved here. See, Op.Atty.Gen. October 4, 1952; see also, CODE OF LAWS OF SOUTH CAROLINA § 58-3-20 (1976). The conclusion of Attorney General Callison was viewed as a correct one by the Court in Moss v. United States, 145 F.Supp. 10 (W.D.S.C. 1956).

Any person, therefore, elected to the Public Service Commission in accordance with the provisions of the new statute relating to the election of Public Service Commissioners must be a legal resident of the district from which he is elected.

Of course, what constitutes the legal residence of a person is a question of fact. See, Ravenel v. Dekle (S.C.), 218 S.E.2d 521 (1974).
 Best wishes,

C. Tolbert Goolsby, Jr.
Deputy Attorney General

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