

1977 WL 37343 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 18, 1977

*1 Honorable Jean B. Meyers
Representative
Horry County
415 Patterson Drive
Myrtle Beach, South Carolina 29577

Dear Representative Meyers:

You have requested opinions from this Office concerning various appointments and recommendations to be made by the Horry County Legislative Delegation [Delegation] and I shall respond to them in the order in which you have posed them:

1. While this Office did advise Senator Ralph Ellis that the Horry County Coordinator of Federal Funds, the Grand Strand Flood District Building Inspector and the Horry County Tax Assessor are by statute to be appointed by the Delegation, including the resident Senator [see, letters dated March 9, 1977, and April 15, 1977, copies of which are attached hereto], by a subsequent opinion, we advised Representative Hodges that the statutes empowering the Delegation to appoint the three official, if challenged, would most probably be declared unconstitutional [see, letter dated April 15, 1977, a copy of which is attached hereto]. Nevertheless, we advised that until and unless there is a successful court challenge to the statutes, their validity is presumed and their mandates should be followed.

Accordingly, the Horry County Tax Assessor is to be appointed by a 'majority of the resident Horry County Legislative Delegation which majority shall include the Horry resident Senator.' 58 STAT. 2990, Act No. 1269, § 3 (1974). The Delegation is defined for the purpose of Act No. 1269 of 1974 as 'all resident members of the delegation, including the resident Senator.' 58 STAT. 2990, Act No. 1269, § 1 (1974). The Grand Strand Flood District Building Inspector is to be appointed by 'the legislative delegation including the resident Senator' [58 STAT. 1323, Act No. 690, § 1 (1973)] and the Horry County Coordinator of Federal Funds is to be appointed by 'the county legislative delegation, including the resident senator.' 58 STAT. 1322, Act No. 688, § 1 (1973). To me, this language means that a majority of the entire Delegation, which majority includes the resident Senator, is to make each of these appointments.

2. As to the appointment of the Agriculture Commission member from the Fifteenth Judicial Circuit (which includes Horry County), the Code sets out a detailed procedure therefor, to wit:

The legislative delegations representing the counties to each judicial circuit shall meet upon written call of a majority of the members of the delegations of each judicial circuit at a time and place to be designated in such call for the purpose of electing a member of the Commission to represent such circuit. A majority present, either in person or by written proxy, or the members of the county legislative delegations from a given circuit shall constitute a quorum for the purpose of electing a member, but no person shall be declared elected who shall fail to receive a majority vote of all the members of the county legislative delegations from the circuit. The joint county legislative delegations of each circuit shall be organized by the election of a chairman and a secretary and such joint legislative delegations shall, subject to the provisions herein, adopt such rules as they deem proper to govern the election. Any absentee may vote by written proxy. When the election is completed, the chairman and secretary of the joint county legislative delegations of each circuit shall immediately transmit the name of the person elected to the Secretary of State . . . § 3-20.51, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum.Supp.)

With kind regards,

***2** Karen LeCraft Henderson
Assistant Attorney General

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