

1976 WL 30613 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 16, 1976

*1 William R. Byars, Esquire
County Attorney
P.O. Box 590
Camden, South Carolina 29020

Dear Mr. Byars:

You have requested an opinion from this office as to whether or not the single member election district method of election for members of a county's governing body is mandated by Act No. 283 of 1975, the 'home rule' legislation, in the event the county does not conduct a referendum on the question of method of election pursuant to Section 14-3701(a) of the Act.

Section 14-3706 of the Act reads in part:

Council members shall be elected from defined single member election districts unless otherwise determined under the provisions of Section 14-3701(a) or Section 14-3701(b). . . .

Section 14-3701(a) allows a county to choose the at large method of election if a majority vote therefor is received after the holding of a referendum on that question. Section 14-3701(b) allows a county to keep its at large method of election if that method of election, or a variation thereof, is presently in effect in the county and if the county does not hold a referendum on the question of method of election by July 1, 1976.

Section 14-3716 of the Act provides that:

. . . [t]he sections of this article, except Sections 14-3701 and 14-3702 shall not apply to the board of commissioners form of government provided for in Article 6.

Section 14-3706, therefore, will not apply if the board of commissioners form is selected. Moreover, Section 14-3785.1 of the Act, which relates to the board of commissioners form only, states in part that:

. . . [m]ethod of election . . . shall be as the General Assembly shall provide when a form of government is selected for the county concerned. . . .

To summarize, therefore, if the county holds a referendum on the form of government but not on the method of election, then the method of election will be the single member method pursuant to Section 14-3706 of the Act. If the county holds a referendum on the method of election, then the method selected by majority vote will be the method under any new form of government, except the board of commissioners forms pursuant to Section 14-3701(a) of the Act. If the county holds no referendum at all by July 1, 1976, the method of election presently existing in that county will continue under the new form of government pursuant to Section 14-3701(b). If the county holds a referendum on the form of government and the board of commissioners form is selected, then the General Assembly selects the method of election for that form pursuant to Section 14-3706 and Section 14-3785.1 of the Act.

With kind regards,

Karen LeCraft Henderson

Assistant Attorney General

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