

1976 WL 30637 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 3, 1976

*1 Representative Wheeler M. Tillman
State House
Columbia, South Carolina 29201

Dear Representative Tillman:

You have requested an opinion from this office as to whether or not the Charleston County Election Commission is empowered by the provisions of Act No. 283 of 1975, the 'home rule' legislation, or by any other law to conduct the referendum provided for in Section 14-3701(a) of Act No. 283 on a date different from the date specified in the petition requesting that such a referendum be conducted.

Section 14-3701(a) of Act No. 283 provides in part as follows:

Each county, . . . may prior to July 1, 1976, conduct a referendum to determine the wishes of the qualified electors as to the form of government to be selected . . . The referendum may be called by an act of the General Assembly, resolution of the governing body, or upon petition of not less than ten percent of the registered electors of the county. The referendum shall be conducted by the county election commission. The question submitted shall be framed by the authority calling for the referendum and when called by petition such petition shall state the question to be proposed. . . . [Emphasis added.]

Inasmuch as the above-quoted language requires only that if the referendum is called by petition of ten percent of the registered electors of Charleston County, the petition state the question to be proposed, the inclusion of a particular referendum date in the petition is mere surplusage and may be disregarded by the Election Commission. Its authority to conduct the referendum is not confined to any time period other than that of July 1, 1976.

The opinion of this office is, therefore, that the Charleston County Election Commission may conduct the referendum provided for in Section 14-3701(a) of Act No. 283 on a date different from that specified in the petition requesting the referendum.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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