

1979 WL 43626 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 28, 1979

*1 Honorable Joseph F. Martin
Chairman
Chester County Council
Chester, South Carolina 29706

Dear Mr. Martin:

I have today received a letter dated September 26, 1979, from the Civil Rights Division of the Department of Justice. A copy of that letter is enclosed herewith.

The Department of Justice objects to the operation of Act No. R-293 of 1979, which extended for one year the provisions of R-248 of 1979, which provided for an election to be held for county council on the second Tuesday in November, 1979. The Legislature, at the same session, therefore, extended the date for the holding of these elections until November, 1980. It is the latter statute to which the Justice Department objects.

The effect of the objection by the Justice Department is to make the statute extending the date for the holding of the elections until 1980 unenforceable. As the Civil Rights Division points out in its letter, the only method of overcoming this objection is by the institution of a suit in the District of Columbia or by requesting the Attorney General of the United States to reconsider the Department of Justice's objection to the one-year extension. A further possibility may be the consideration of the matter by the United States District Court, which previously enjoined the 1978 elections in Chester County.

In my opinion, each of these methods of appeal would be futile, but this is a matter which you should discuss with your county attorney. On the date of this letter, he was absent from the city and I have not been able to reach him. Subject to his concurrence, however, it is my view that Chester County should proceed forthwith to conduct the elections in accordance with the original statute which provided that they be held on the second Tuesday in November, 1979.

Very truly yours,

Daniel R. McLeod
Attorney General

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