

1978 WL 34698 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 13, 1978

\*1 Charles Porter, Esquire  
Richland County Attorney  
Post Office Box 4069  
Columbia, South Carolina 29240

Dear Mr. Porter:

You have requested an opinion from this office as to the earliest possible date upon which a referendum can be held in Richland County to determine whether or not the method of electing the members of the Richland County Council (Council)—should be changed from the at large method to the single-member election district method. In my opinion, the present provisions of Act No. 283 of 1975, the ‘home rule’ legislation, do not authorize the holding of such a referendum.

[Section 4-9-10\(c\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, provides:

After the initial form, number and composition has been adopted and selected, the adopted form, number and composition shall not be changed for a period of two years from the date such form becomes effective and then only as a result of a referendum as hereinafter provided for. [Emphasis added.]

Unless the word ‘composition,’ as it is hereinabove used, is construed to mean ‘method of election,’ the provision does not appear to provide for the manner in which a change in the method of election can be effected. ‘Composition,’ in [Section 4-9-10\(b\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, however, appears in conjunction with ‘method of election’ and, therefore, as a comparison of these two provisions in pari materia indicates, it is not synonymous with ‘method of election.’ Clearly, the omission was inadvertent as the General Assembly cannot reasonably be presumed to have intended that counties are to remain forever tied to the original method of election selected; nonetheless, until this gap in the law is closed by amendment, I think that there is no statutory authority for a county to conduct a referendum to change the method of electing the members of its governing body. The same conclusion was reached by the Charleston County Court in an action entitled Hamilton, et al. v. Tillman, et al., No. 77-CL-10-1059. I am enclosing herewith a copy of the order in that case which holds, inter alia:

... ‘Method of election’ is not subject to referendum under [§ 4-9-10\(c\)](#); . . . Order filed November 18, 1977, at 11.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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