

1978 WL 34690 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 8, 1978

*1 Senator John E. Miles
602 West Calhoun Street
Sumter, South Carolina 29150

Dear Senator Miles:

You have requested guidance from this office to ascertain who is the appropriate authority to apportion the county into single member election districts following the United States Justice Department's disapproval of the at-large method of election for county councilmen. In my opinion, the apportionment should be performed by the General Assembly.

The House Rule Act states that '[i]n the event that the members of the [county] governing body are required to be elected from defined single member election districts, the General Assembly shall provide for the composition thereof.' [§ 4-9-10\(a\), S.C. Code](#) 1976. Although this statutory section deals with the initial organization of county governments under the Home Rule Act, the provision is, in my opinion, still applicable here.

Sumter County has already selected a form of government and conducted an initial organization pursuant to the Home Rule Act. However, the Justice Department has required that members of the county governing body be elected from single member districts, contrary to the initial organization of the county government. Since the method of election has been disapproved, the situation in Sumter County with respect to the election of councilmen is at present similar to that of an initial organization. According to the statute, in an initial organization of the county government, the General Assembly shall provide for the composition of any single member election districts. *Id.*; see also [Duncan v. York](#), 267 S.C. 327, 228 S.E.2d 92 (1976).

This conclusion also follows easily from the statutory language under consideration. It permits the General Assembly to provide for single member districts '[i]n the event that the members of the governing body are required to be elected from defined single member election districts' [§ 4-9-10\(a\), S.C. Code](#) 1976. In the case of Sumter County the members are required, by the Justice Department, to be elected from single member districts. Therefore, according to the plain meaning of the words in the statute the creation or apportionment of single member districts should be effected by the General Assembly.

This conclusion, furthermore, is consistent with the Home Rule Amendment to the constitution which prohibits special legislation for a specific county. [Art. VIII, Sect. 7, S.C. CONST.](#) The South Carolina Supreme Court has upheld special legislation essential for the initial organization of a county government. [Duncan v. York](#), *supra*. The court characterized these permissible special acts as 'One-shot' propositions,' necessary to effect an orderly transition to home rule. *Id.* The disapproval by the Justice Department of Sumter County's at-large election method has disrupted that orderly transition to home rule in Sumter County. This disapproval has necessitated an additional initial organization with respect to the election of councilmen. Therefore, any special act creating single member election districts in Sumter County would most likely be upheld on the ground that it would constitute a 'one-shot' statute effecting an orderly transition to home rule.

*2 For the above reasons, it is my opinion that the authority, under the Home Rule Act, for creating single member election districts on this occasion in Sumter County lies in the General Assembly.

Sincerely yours,

David C. Eckstrom
Staff Attorney

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