

1978 S.C. Op. Atty. Gen. 99 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-70, 1978 WL 22551

Office of the Attorney General

State of South Carolina

Opinion No. 78-70

April 11, 1978

**\*1 SUBJECT: Wards, Precincts.**

(1) Under § 7-7-10 and § 5-15-50, [South Carolina Code](#) of Laws, 1976, the General Assembly would be the only authority who should draw ward lines for voting purposes; Municipalities could draw ward lines pursuant to § 5-15-50, [South Carolina Code](#) of Laws, 1976, for other than election purposes.

(2) If the General Assembly fails to designate a voting place another authority may designate the voting place.

(3) Municipalities would not be able to pool all the precincts in municipality for municipal election.

TO: James B. Ellisor  
Executive Director  
State Election Commission

QUESTIONS:

(1) That the General Assembly alone has authority to establish voting precinct boundaries (including boundaries of city wards), and please define any difference between a city ward and a precinct in general, if any, other than a ward usually is considered, for purposes of terminology, a precinct within a city or town?

(2) That is the General Assembly fails to designate a voting place by legislative act, may the authority (board, commission, committee, etc.) conducting the election designate the voting place?

(3) That a voter must vote in the precinct in which he is registered and resides (boundaries fixed by the General Assembly), or can a municipality permit the voters in precincts that exist in the city or town to vote together in a single voting place in a town election, when the voting place could not possibly be located in but one of the precincts?

STATUTES AND CASES:

§§ 5-15-50, 7-7-10, 7-7-930, 7-1-20(b), 7-1-20(12), 7-7-470, 7-7-910, and 7-7-920, [Code of Laws of South Carolina](#), 1976.

[South Carolina Constitution, Article II, § 4.](#)

[1951 (47) 229] and [1971 (57) 319], Acts and Joint Resolutions.

1978 Act bearing Ratification Number 476.

McQuillin, [Municipal Corporations](#), vol. 2, § 7.49.

29 C.J.S., Elections, § 1(10) c.

BLACK'S Law Dictionary, 4th Ed., 'Ward'.

Oxford English Dictionary, 'Precinct'

Opinion of Robert W. Brown to Mrs. Lillian Dilleshaw, October 30, 1969 (South Carolina Attorney General's Opinions).

#### DISCUSSION:

(1) It is the opinion of our Office that the General Assembly alone has the power to establish voting precinct boundaries. However, it does not appear that only the General Assembly can draw ward lines.

In general the words precinct and ward may be used interchangeably and carry the same connotation. McQuillin, Municipal Corporations, Vol., 2, § 7.49; Oxford English Dictionary, 'Precinct'; BLACK'S Law Dictionary, 4th Ed., 'Ward'. However, there is some law that states that a ward is not the same as a precinct. 29 C.J.S., Elections, § 1(10) c states in part that

[w]hile a ward, like a township, may be an election district, yet it is a more comprehensive term; an election district may be but part of a ward politically and physically.

\*2 A precinct is a geographical area for voting purposes. However, a ward may be a geographical area not only for voting purposes but for police, sewer, or park purposes. 29 C.J.S., Elections, § 1(10) c.

This rationale appears to have been adopted in this State. In the original provisions of municipal home rule, the municipal governing body was given the authority to establish ward lines and precinct lines. [Section 5-15-50, South Carolina Code of Laws, 1976](#). In 1978, an act bearing ratification number 476 amended this provisions to specifically repeal the provisions authorizing a municipality to draw precinct lines. The statute now authorizes a municipality only to establish municipal ward lines.

[2] Yes. See Opinion of Robert W. Brown to Mrs. Lillian Dilleshaw, October 30, 1969, which is enclosed.

[3] [Article II, Section 4](#) states in part that '[e]very citizen of . . . this State . . . who is properly registered shall be entitled to vote in the precinct of his residence and not elsewhere. . . .' [Section 7-7-930, South Carolina Code of Laws, 1976](#), requires every registered elector to vote in polling place and precinct that his registration card entitles him to vote. See also: Sections 7-1-20(b); 7-1-20(12); 7-7-470; 7-7-910, 7-7-920.

[Section 7-7-920](#) states in part that:

[i]n any city or town having not more than one polling precinct, established by ordinance, for municipal elections, all duly qualified electors shall be permitted to vote in municipal elections at such voting place if such electors are authorized to vote at any voting precinct within such city or town.

The above-cited provision of [Section 7-7-920](#) would allow municipalities to combine their precincts into one precinct; and therefore, allow persons to vote in a voting place not necessarily within their own precinct. This conflicts with the requirement of the Constitution that every person vote ' . . . in the precinct of his residence and not elsewhere. . . .'

[Section 7-7-920](#) was originally enacted in 1951, [1951 (47) 229], and has not been amended, since its original enactment. Since that time, [Article II, Section 4 of the South Carolina Constitution](#), which authorizes an elector to vote only in his

precinct, was ratified, [1971 (57) 219]. Additionally, Section 5-51-50 of the Code of Laws of South Carolina, 1976, was amended in 1978 to specifically remove from municipalities their power to fix precinct lines.

CONCLUSION:

[1] Therefore, if the wards in a municipality will be the dividing lines for the city for voting purposes, under [Sections 7-7-10](#) and [5-15-50, South Carolina Code](#) of Laws, 1976, the General Assembly would be the only authority who should draw the lines. However, if a municipality is drawing ward lines not for election purposes but for other purposes, the municipality could draw these lines pursuant to [Section 5-15-50, South Carolina Code](#) of Laws, 1976.

[3] As the municipalities no longer have the authority to establish precinct lines, they would not be able to pool all the precincts in a municipality for municipal elections as this would in effect be authorizing a municipality to establish precinct lines.

\*3 Treva G. Ashworth  
Assistant Attorney General

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