

1975 S.C. Op. Atty. Gen. 118 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4043, 1975 WL 22340

Office of the Attorney General

State of South Carolina

Opinion No. 4043

June 30, 1975

*1 County governing bodies become vested with the powers specified in Act No. 283 of 1975, the 'home rule' legislation, either upon their adoption of one of the forms of government pursuant to Section 14-3701(a) or on July 1, 1976, pursuant to Section 14-3701(b).

TO: Russell B. Shetterly
Executive Director
South Carolina Association of Counties

QUESTION PRESENTED

Do the powers contained in Act No. 283 of 1975, the 'home rule' legislation, become effective for county governments upon passage of that Act or are they effective upon adoption of a form of government provided for in the legislation?

STATUTES, CASES, ETC. INVOLVED

Act No. 283 of 1975 [57 STAT. Act No. 283 at _____ (1975)]

Voting Rights Act of 1965 [[42 U.S.C. §§ 1971 et seq.](#)]

DISCUSSION OF ISSUE

Act No. 283 of 1975 amends Title 14 of the 1962 Code by adding Chapter 63 thereto. Beginning at Section 14-3701(a) of the Code, the legislation provides that each county may conduct a referendum to determine the wishes of the qualified electors as to the form of government to be selected for that county. The county governing body then provides, by resolution, for the adoption of the form of government selected in the referendum. The resolution adopting the form of government becomes effective immediately upon its filing in the Secretary of State's office.

If no such referendum is held by July 1, 1976, then, beginning on that date, the county concerned shall have the form of government provided for it in Section 14-3701(b).

The powers possessed by county governing bodies are set forth in Section 14-3703; that Section begins as follows: Under each of the alternate forms of government listed in Section 14-3702, . . . each county government . . . shall have the following innumeration powers . . . [Emphasis added.]

The above quoted language clearly manifests that county governments are to possess the powers therein provided for after one of the alternate forms of government is selected.

Note should be taken of the fact that Section 5 of the Voting Rights Act of 1965 ([42 U.S.C. §§ 1971 et seq.](#)) prohibits the enforcement in South Carolina, one of the jurisdictions covered by that Act ([42 U.S.C. 1973b](#)), of any voting

qualifications, prerequisites to voting, standards, practices or procedures with respect to voting different from those in force or effect on November 1, 1964, until those changes are either approved by the Attorney General of the United States or are declared by the District Court for the District of Columbia to be in compliance with the provisions of that Act. Act No. 283 of 1975 was submitted to the United States Attorney General on June 27, 1975; that office must interpose an objection, if any, to that Act within sixty days following its submission to him, unless he requests the submission of additional information in which case the sixty-day period is extended. [42 U.S.C. 1973c](#); see also, [28 C.F.R. 51.1](#) at 136–7. Our office takes the position that the provisions of Act No. 283 of 1975 cannot validly be implemented unless and until the requisites of Section 5 of the 1965 Voting Rights Act have been met.

CONCLUSION

*2 County governing bodies become vested with the powers specified in Act No. 283 of 1975, the ‘home rule’ legislation, either upon their adoption of one of the forms of government pursuant to Section 14–3701(a) or on July 1, 1976, pursuant to Section 14–3701(b).

Karen LeCraft Henderson
Assistant Attorney General

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