

1974 WL 27607 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 22, 1974

\*1 Mr. G. Werber Bryan  
County Attorney  
17 E. Calhoun Street  
P. O. Box 2038  
Sumter, South Carolina 29150

Dear Mr. Bryan:

Thank you for your letter of January 14, 1974, concerning a special election to be called in the town of Pinewood due to a resignation of one of the wardens of the town council.

I would agree with you that the ten (10) day public notice prior to the setting of an election, required by South Carolina Code of Laws, 1962, Section 47-111 would also apply to 47-112, which establishes two year terms for elected officers in the town of Pinewood. There must at least be ten (10) days notice however, it would not violate the statute to have more than ten (10) days notice.

The one problem I perceive with your proposed plan relates to the filing of petitions for candidates. A 1973 Act [1973 (58) 422], a copy of which I have enclosed, establishes new procedures for nominating petitions in municipal elections. Now nominating petitions require the signature of not less than two percent of the qualified registered electors of the municipality, and in no event more than one thousand signatures. The last sentence of the Act states, 'all such petitions shall be filed not later than the date on which candidates certified by political parties are required by law to file.' This sentence requires reference to code section 23-400.15 which states in part

In case of county or municipal elections, the nominees of any party primary or party convention shall be placed upon the appropriate official ballot . . . if the names of nominees in municipal elections are certified to such authority at least fifteen days prior to the holding of the election . . . [emphasis added]

Therefore, these petitions must be filed fifteen (15) days prior to the election. In your letter you state that the petitions would be required to be submitted on January 23, with the election set for January 29, therefore, the requirement that the petition be filed fifteen (15) days prior to the election cannot be fulfilled under your proposed plan.

If I can be of any further help, please do not hesitate to contact me.

Sincerely,

Treva Ashworth  
Staff Attorney

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