

1974 WL 27992 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 28, 1974

\*1 Mr. L. Hugh Smith  
City Manager  
City of Hanahan  
Post Office Box 9278  
Hanahan, South Carolina 29410

Dear Mr. Smith:

Thank you for your letter of October 21, 1974, in which you requested information concerning whether or not Act Number 1235 of the 1974 Acts and Joint Resolutions would affect your planned municipal election for December 3, 1974.

This act was submitted to the United States Department of Justice on August 22, 1974, for their consideration under the Voting Rights Act. On October 17, 1974, this office received a telephone communique from the United States Department of Justice informing this office that they had approved the above-cited act. Under the requirements of the Voting Rights Act, no changes in laws which affect voting can be implemented until they are approved by the United States Department of Justice. Therefore, this act was not legally enforceable until at least October 17 when telephone confirmation of its approval was received by this office.

This act makes multiple changes in the election laws of this State; however, the changes that are of specific concern at this time are Sections 4, 5 and 6 of this act. These changes relate to the requirements for petition candidates.

Section 4 states in part

The nominees in a petition . . . shall be placed upon the appropriate official ballot . . . if the names of such nominees are certified . . . for special and municipal elections, by at least twelve o'clock noon on the forty-fifth day prior to the date of the holding of such election, or if the forty-fifth day falls on Sunday, by twelve o'clock noon on the following Monday.

As your city has designated December 3 as the time for the special election, October 19 would have been forty-five days prior to the election. This date fell two days after the Department of Justice approved the act and sufficient time to meet the requirements of filing petitions could not have conceivably been met in that two day period. Therefore, it is my opinion that under the above-stated conditions the requirements of this act would not be applicable to your municipal election.

However, it should be pointed out that if municipal election laws that Hanahan operates under makes it possible, the election could be postponed until a date in the future when the requirements of this new act could be used to govern the election.

Sincerely,

Treva Ashworth  
Assistant Attorney General

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