

1973 WL 26705 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 18, 1973

***1 Re: Ratification of the Equal Rights Amendment**

Honorable Carolyn E. Frederick
Member
House of Representatives
Greenville County
The State Capitol
Columbia, South Carolina

Dear Mrs. Frederick

On April 12, I advised you by telephone that it would be necessary for two-thirds of both branches of the General Assembly to vote in favor of ratification before the Equal Rights Amendment to the United States Constitution could be ratified by the State of South Carolina. This advice was in error. Subsequent research has revealed that the Equal Rights Amendment to the United States Constitution can be ratified by a majority vote of each branch of the General Assembly.

As you are aware, neither the United States Constitution nor the Constitution of the State of South Carolina sets out the procedure to be followed in ratifying an amendment to the United States Constitution. Article 16, Section 1 of the South Carolina Constitution, however, requires a majority vote of each branch of the General Assembly to ratify an amendment to the South Carolina Constitution. See [Thompson v. Livingston](#), 116 S.C. 412, 107 S.E. 581 (1921).

This office has been informed that in the past the General Assembly has followed the ratification procedure provided for in Article 16, Section 1 of the State Constitution in ratifying amendments to the United States Constitution. This includes the proviso that the amendment shall be read three times on three different days in each chamber. See 1971 Acts and Joint Resolutions, p. 1129; 1971 Journal of the Senate, p. 1141; 1971 Journal of the House of Representatives, vol. 1, p. 1465. Using Article 16, Section 1 of the South Carolina Constitution and prior legislative precedent as authority, it is the opinion of this office that the ratification of an amendment to the United States Constitution requires the affirmative vote of a majority of each branch of the General Assembly. If we can be of any farther assistance to you in this matter, please do not hesitate to call upon us.

Yours very truly,

Ellison D. Smith, IV
Assistant Attorney General

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