

1973 WL 26745 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 16, 1973

*1 Honorable Marshall Cain
South Carolina House of Representatives
Capital Cabana
Assembly Street
Columbia, South Carolina 29202

Dear Mr. Cain:

You have requested that this office advise you as to whether the election procedure for the changing of county boundary lines property lies within the provisions of §§ 14-101, et seq, and 14-151, et seq exclusively, or whether those statutory provisions must be observed in conjunction with § 14-101.1.

Section 14-101 provides:

Whenever the citizens of any section of one county desire to be incorporated within the limits of an adjoining county one third of the qualified electors residing in the area sought to be cut off shall sign and file a petition to the Governor to that effect, stating the area proposed to be cut off, from what county & to what county added and that the two counties as proposed to be changed would still meet all the constitutional requirements. Upon the filing of such petition the same procedure shall be had, except as hereinafter in this chapter provided, as in the formation of new counties as provided in Chapter 4 of this title.

Section 14-101.1, sets forth a procedure which may be followed to request that an election be held, this statute requiring a petition to be filed with the Governor, signed by at least fifteen per cent of the qualified electors—within the county, and the election being clearly a ‘special election’.

In considering whether § 14-101 and § 14-191.1 must be observed concurrently, the basin rule of statutory construction is to give effect to the intention of the legislature. [McGlohon v. Harlan](#), 254 SC 207, 174 SE 2d 753. Viewing these statutes in the light of legislative intent, it appears that they are independent except when a ‘special election’ is desired and then they become interdependent. This interpretation gives a reasonable construction to each statute and when this is possible it is favored by the courts. [Clouse v. American Mutual Liability Insurance Co.](#), 344 F 2d 18. Furthermore, construing these statutes in pari materia the construction should be followed which renders a clear and unambiguous meaning to both, [Rabon v. South Carolina State Highway Department](#), 187 SE 2d 652. Again this would tend to support the conclusion that the differing sections are interdependent only when a ‘special election’ is desired.

Based upon the foregoing reasoning and authorities, it is the opinion of this office that § 14-101, et seq and Chapter 4 (14-151, et seq) are the governing statutes as to changing the boundaries of a county except in those instances where a ‘special election’ is desired when § 14-101.1 must be observed.

Inasmuch as this question is one of statutory construction, a conclusive determination can only be made by competent judicial authority, and this opinion cannot thus be free from doubt as to such future judicial determination.

I trust this has been sufficient to answer the question you posed, If we may be of any further assistance, please do not hesitate to call or write.

Very truly yours,

*2 Timothy G. Quinn

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