

1973 WL 27698 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

June 19, 1973

**\*1 Re: Change of County Boundaries**

Honorable Marshall Cain  
H.C. House of Representatives  
The State House  
Columbia, South Carolina

Dear Mr. Cain:

You have requested this office advise you as to the effect of Constitutional Amendment No. 1631, 1972(57) 3184, Section 5, upon the changing of county boundary lines. The above-referenced Amendment drastically alters requirements for merger of a part or parts of counties to one or more adjoining counties.

Now the governing bodies of the county or ten percent of the population may petition for an election. Previously there was no provision allowing the governing body of a county to petition and there was a requirement for one-third or 15 percent, depending on the status of the population to petition instead of ten percent. Further it appears that the General Assembly is the proper authority to petition instead of the Governor as previously required by statute. More importantly it seems that both the portion to be annexed and the county it will be annexed to must vote on the issue. This amendment states in part: 'No merger shall take place unless two-thirds of the qualified electors voting on the question in the territory to be transferred and a majority of the electors voting on the question in the county to which the territory is proposed to be annexed shall vote therefore.'

The conjunction 'and' appears to make both the requirements mandatory. Therefore, it is the opinion of this office that under the new constitutional provisions both counties must vote as opposed to the old statutory requirements where either the county to be annexed could vote or upon an additional petition the county to which the area would be joined could also vote.

It is apparently not necessary to wait for the next General Election for such a vote, allowing a Special Election to be called on this request, or petition. Under the old statutory requirements the Governor was under a duty to order an election to be held. The new amendment does not address itself to this question, only stating that the General Assembly shall make provisions for the merger. Therefore, it will ultimately be necessary to wait for their determination of appropriate procedures. However, it is assumed they will call an election on this issue as the individual questions arise instead of holding the issue until the next regularly scheduled General Election.

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

Very truly yours,

Timothy G. Quinn  
Senior Assistant Attorney General

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