

1973 WL 26872 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 4, 1973

***1 Re: Voting Precincts in Charleston County**

The Honorable T. Dewey Wise
State Senator
23 Broad Street
Charleston, South Carolina 29401

Dear Senator Wise:

Thank you for your letter of August 30 inquiring as to whether or not, in my opinion, the proposed incorporation election for James Island should be delayed until the new precinct plan, adopted at the 1973 session of the Legislature, is put into operation, or if the election may now be held under the old precinct plan.

I received a previous inquiry from The Honorable James M. Condon and my answer dated August 28 to his letter is enclosed herewith. In that, I noted that, in my view, the old precinct lines should be used until the approval or disapproval of the new plan by the Justice Department. I base this conclusion on the principle that if a new statute is declared invalid, previous law will govern and control. The situation is not precisely the same, but if a new law cannot be implemented because of its disapproval by the Department of Justice, before which it is now pending, there would be no way to conduct the election except by using the old precinct lines.

The Department of Justice will be required to act on or about September 18, 1973, unless they should extend that period by requiring further data in order to appraise the new precinct Act. If they should approve the new Act, it would become immediately effective and would supersede the old. Following such approval, it would be necessary to transfer the registered electors to the new precincts and this would require some period of time. If the Justice Department does not approve the new Act, then a determination must be made as to whether legal action in the District of Columbia will be instituted to override the disapproval by the Justice Department. This would require an extended period of time.

In these circumstances, it is my opinion that the wisest course of action would be to postpone the election, which I am advised is now set to take place within the next thirty days. If the Department of Justice has not acted upon the matter by the deadline upon which it must act (on or about September 18), the election may then be set to be conducted under the new precinct lines. If, by September 18, the Department of Justice has asked for additional information, thereby postponing its deadline, a determination should then be made as to whether the election should be ordered under the old precinct lines or whether it should be delayed in the hopes that the Justice Department will ultimately approve the new precinct lines.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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