

1973 WL 27715 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 18, 1973

*1 Honorable James P. Harrelson
City Attorney
Town of Edisto Beach
P. O. Drawer 732
Kalterboro, South Carolina 29488

Dear Mr. Harrelson:

A portion of Edisto Beach which lies in Charleston County at one time belonged to Colleton County. Recently, a number of electors residing in the Edisto Beach areas indicated a desire to have that area once again become a part of Colleton County. You have requested that we advise you as City Attorney for the Town of Edisto Beach, South Carolina, as to whether or not the acceptance of part of Charleston County as a part of Colleton County may be accomplished by a legislative act.

Prior to March 7, 1973, the alteration of county lines was governed by article VII, Section 7 of the State Constitution. That provision provided in part:

The General Assembly shall have the power to alter county lines at any time: Provided, That before any existing County line is altered, the question shall be first submitted to the qualified electors for the territory proposed to be taken from one County and given to another, and shall have received two-thirds of the votes cast: . . .

On March 7, 1973, Article VIII of the Constitution of South Carolina was ratified by the General Assembly, 58 STAT. Act No. 63, § 1 at 68 (1973). Section 5 of the new Article VIII provides:

The General Assembly shall provide for the merger of a part or parts of a county with one or more adjoining counties upon request by the governing body of the county in which such part or parts are located, or upon petition by ten percent of the registered voters in the area desiring to transfer to another county. 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 therefor.

Unlike before, the State Constitution now requires that the county to which territory is proposed to be annexed provide its approval to that annexation; and that approval must be manifested in the county to which the territory is sought to be annexed by a majority of the electors voting therein in favor of annexation. There is no provision by which the approval may be had by legislative act.

It is our opinion, therefore, that the acceptance of the proposed annexation of a portion of Charleston County to Colleton County must be expressed by the majority of the Colleton County electors voting in the election on the issue of annexation of the Edisto Beach area. Acceptance can not be accomplished by the enactment of a statute by the General Assembly in view of the expressed provisions of new Article VIII, Section 5.

With kind regards.

Sincerely,

C. Tolbert Goolsby, Jr.

Deputy Attorney General

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