

The State of South Carolina



Office of the Attorney General

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October 6, 1987

The Honorable Joe Wilson
Member, South Carolina Senate
Post Office Box 5709
West Columbia, South Carolina 29171

Dear Senator Wilson:

You have requested information as to whether the so-called "lost amendment" to the U.S. Constitution, which limits congressional pay raises, may be deemed ratified by South Carolina when the ratification occurred on January 19, 1790. A number of other states have also ratified this amendment over the years.

After a review of the authorities, I must advise that there has never been a definitive decision by the United States Supreme Court as to whether the Court will even consider the question of what constitutes a reasonable time for ratification of a proposed amendment, much less what such a reasonable time would be. The leading case in this area is Coleman v. Miller, 307 U.S. 433 (1939). In that case, a plurality of the Court held that the question of the time period for ratification of constitutional amendments was a political question. Authorities on constitutional law agree that the question is still unresolved today. See, Nowak, Rotunda, and Young, Constitutional Law, pp. 114-15 (2d Edition, 1983).

I regret that this Office cannot provide a more definitive answer, but as you can see, the question has remained an open one for many decades.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Kenneth P. Woodington".

Kenneth P. Woodington
Senior Assistant Attorney General

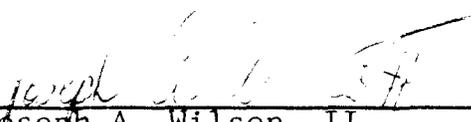
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REVIEWED AND APPROVED BY:



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