

1979 WL 43124 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
October 23, 1979

*1 Honorable Ralph H. Ellis
Senator
District No. 11
Post Office Box 66
Little River, South Carolina 29566

Dear Senator Ellis:

In response to your inquiries concerning the provisions of [Section 4-9-10\(c\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, I can advise you as follows:

1. A county council is empowered to call for a referendum to change the number of members thereof and to change the form of county government by ordinance after the initial form, members, etc. have been effective for a period of two years. The same referendum can also seek the wishes of the electorate with respect to the method of electing county council members so long as that question is clearly phrased as an advisory one only. See, § 4-9-30(16), CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended.

2. In my opinion, a change in the number of members of a county council effected by means of a favorable referendum on the question becomes effective at the next regularly scheduled election for county council members, i.e., in the next November general election. In the case of Horry County, a change from eight to eleven members of the Horry County Council would mean that eleven members would be elected for the first time during the November, 1980 general election, assuming United States Justice Department approval has been obtained and other procedural requirements have been met.

3. In the case of Horry County, the present members' terms expired by the terms of the 1976 legislation two years after they took office as a result of the November, 1976, general election. They are currently holding office by virtue of a court order and are holdover members only so that they will not need to resign before eleven new members are elected because their terms have already expired and they are serving until their successors are elected and qualified.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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