

1976 WL 30812 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 1, 1976

*1 R. Markley Dennis, Esquire
County Attorney
P. O. Drawer 1174
Moncks Corner, South Carolina 29461

Dear Mr. Dennis:

You have requested an opinion from this Office as to whether or not the November 2, 1976, general election ballot for Berkeley County should provide for balloting on the offices of Auditor and Treasurer. In my opinion, it should not.

Our Office has previously issued an opinion to the effect that:

. . . those counties whose treasurers' and auditors' terms of office will expire within the year must elect treasurers and auditors in the general election scheduled for November 2, 1976, if those counties operate under any but the council-manager form of government. . . .

Nevertheless, Berkeley County does not yet operate under the council-supervisor form of government. Because of the then-pending litigation [Duncan v. The County of York, et al., (Opinion No. 20270 filed August 11, 1976)] concerning whether or not the General Assembly could constitutionally implement Berkeley County's selection pursuant to Sections 14-3701(a) and 14-3706 of Act No. 283 of 1975, the 'home rule' legislation, the General Assembly did not so implement that selection before it adjourned in July.

Consequently, until the General Assembly can enact the implementing legislation and until the United States Justice Department's approval is obtained pursuant to Section 5 of the 1965 Voting Rights Act, my opinion is that those provisions of Section 14-3718 of the South Carolina Code, as amended, which require county auditors and treasurers to be elected in the general election for four-year terms under all forms of government except the council-manager form are not effective for Berkeley County, *i.e.*, until most probably the November, 1980, general election. The successors to the present Auditor and Treasurer will be appointed for four-year terms to expire on January 1, 1981, and July 1, 1981, respectively, pursuant to the provisions of Sections 65-1741, 65-1744, 65-1954 and 65-1955 of the South Carolina Code.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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