

1976 WL 30841 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 18, 1976

*1 Glenn S. Baldwin, Esquire
Assistant Greenville County Attorney
First Federal Bldg.
Suite 400
301 College Street
Greenville, South Carolina 29601

Dear Mr. Baldwin:

You have requested an opinion from this Office as to whether or not the Greenville County Council is empowered to establish the terms of office for its members commencing with the 1978 general election. In my opinion, it cannot until the provisions of Act No. 283 of 1975, the 'home rule' legislation, have been amended to so authorize it.

Section 14-3701(c), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), mentions only changes in form (of government), number (of council members) and composition (which I believe cannot mean 'method of election' in view of the fact that 'composition,' in Section 14-3701(b), appears in conjunction with 'method of election and, thus, is not synonymous therewith) as far as changes from the initial determinations are concerned. The Act is silent as to the procedure to change the initial determination vis a vis terms of office of council members and, in my opinion, vis a vis method of election. The brief of the Attorney General submitted to the Supreme Court in the Duncan case pointed out those gaps but the Court did not rule thereon. As you know, the Court has retained jurisdiction in the Duncan action and Greenville County may want to consider petitioning the Court as to the procedure to change the initial determination regarding terms of office. In the meantime, however, I am of the opinion that the Greenville County Council is not authorized by the present provisions of Act No. 283 of 1975 to effect such a change.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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