

1976 WL 30560 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 21, 1976

*1 Representative W. D. Rhoad
P. O. Box 508
Bamberg, South Carolina 29003

Dear Representative Rhoad:

You have requested an opinion from this Office as to several ramifications of the United States Justice Department's disapproval of Bamberg County's single member election district plan for the members of its new county council. I have discussed the matter with Assistant Attorney General Treva Ashworth, who is this Office's liaison with the Justice Department, and my understanding from her is that she is presently in the process of issuing an opinion covering all aspects of the disapproval. I have asked her to forward a copy of that opinion to you when it is in final form.

You have also requested an opinion as to the procedure, if any, by which Bamberg County can alter the applicable supply act [59 STAT. 897 (1975)] to fit the budgetary needs of the County during the present fiscal year. In my opinion, the County can do nothing in the matter until Justice Department approval is obtained. Inasmuch as our Office has advised every county that the new powers granted to it by Act No. 283 of 1975, the 'home rule' legislation, should not be exercised until the Justice Department sanctions that county's form of government and method of election and inasmuch as Bamberg County's present governing body has not heretofore possessed the power to adopt a budget and to assess and levy taxes pursuant to its organic act [§§ 14-201 et seq. and §§ 14-901 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended; cf., 58 STAT. 2849 (1974)], my opinion is that the Bamberg County governing body cannot alter the provisions of the 1975-1976 supply act, made applicable to the 1976-1977 fiscal year by virtue of Section 14-19 of the South Carolina Code of Laws, until the Justice Department clears the way for it to exercise the new 'home rule' powers without question. When the way is cleared, the governing body will most probably be able to alter the supply act provisions pursuant to Sections 14-3703(5) and 14-3711 of the South Carolina Code of Laws.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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