



ALAN WILSON  
ATTORNEY GENERAL

October 9, 2017

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Town Attorney  
Town of Summerville  
200 South Main Street  
Summerville, SC 29483-6000

Dear Mr. Parker:

Attorney General Alan Wilson has referred your letter dated April 12, 2017 to the Opinions section for a response. The following is this Office's understanding of your question and our opinion based on that understanding.

**Issue** (as quoted from your letter):

*At the Town's Finance Committee meeting on April 10, 2017, Council discussed reducing the number of polling places open during a Municipal election for Council members. The Town is governed by six (6) Council members, each elected from one (1) of six (6) Single Member Districts and the Mayor who is elected at large. Polling places selected and opened by the Dorchester County Board of Elections and Voter Registration during an election are often outside of the District of the Council Member running for election[,] exceed the number needed to conduct the election and are often not the nearest polling place to the elector's residence.*

*The suggested solution to this problem is to have one central polling location for each District or, in the alternative, one central polling place for the entire Town. The Dorchester County Board of Elections and Voter Registration has indicated that if the Town changes [its] ordinances to have a central polling place for each Council District, it would not be a problem. The County Board, however, has gotten a negative feedback from the State Election Commission who say leave it as it is, citing the above referenced opinion number [dated April 11, 1978]. Council has instructed me to ask for an updated Attorney General's Opinion that the suggested method of a central polling place for each District or one polling place for the entire Town would be permitted or in the alternative, not permitted.*

**QUESTIONS:**

- (1) S.C. Code Section 7-7-910(A) requires that in municipalities in which officers are elected by wards or other municipal subdivisions electors are to vote at the designated polling place. Does either a "ward" or "other" municipal subdivision" equate to a "district"?*
- (2) S.C. Code Section 7-7-920 requires that in all municipal elections where council members are elected by "wards", electors are to vote at the "voting place" within their "ward" nearest their residences and in an at large election, they vote at the "precinct" nearest their residence. Are the terms "ward" and "district" interchangeable? For purposes of this section, does the term "precinct" mean "voting place"?*
- (3) Can the Town of Summerville elect to have a central polling place for each district or, in the alternative, have a central polling place for all municipal elections?*

**Law/Analysis:**

First and foremost, while this Office will review a prior opinion, we traditionally do not overrule a prior opinion unless there has been a change in the law or where there is clear error. See, e.g., Ops. S.C. Att’y Gen., 2017 WL 1290050 (S.C.A.G. March 24, 2017); 2013 WL 6516330 (S.C.A.G. November 25, 2013); 2013 WL 3762706 (S.C.A.G. July 1, 2013); 2009 WL 959641 (S.C.A.G. March 4, 2009); 2006 WL 2849807 (S.C.A.G. September 29, 2006); 2005 WL 2250210 (S.C.A.G. September 8, 2005); 1986 WL 289899 (S.C.A.G. October 3, 1986); 1984 WL 249796 (S.C.A.G. April 9, 1984). This Office concluded in the 1978 opinion among other things that Article II, Section 4 of the South Carolina Constitution required everyone to vote “in the precinct of his residence and not elsewhere.” Op. S.C. Att’y Gen., 1978 WL 22551 (S.C.A.G. April 11, 1978). However, Article II, Section 4 of the South Carolina Constitution was changed by the voters in 1997. The act authorizing the amendment stated that:

AN ACT RATIFYING AN AMENDMENT TO SECTION 4, ARTICLE II OF THE CONSTITUTION OF SOUTH CAROLINA, 1895, RELATING TO VOTER QUALIFICATIONS, SO AS TO DELETE THE REQUIREMENT THAT A CITIZEN OF THE UNITED STATES AND OF THIS STATE IS ENTITLED TO VOTE ONLY IN THE PRECINCT OF HIS RESIDENCE AND THAT ANY REGISTERED ELECTOR WHO HAS MOVED HIS PLACE OF RESIDENCE DURING THE THIRTY DAYS IMMEDIATELY PRIOR TO THE DATE OF AN ELECTION IS ENTITLED TO VOTE IN HIS PREVIOUS PRECINCT OF RESIDENCE.

CONSTITUTIONAL AMENDMENT RATIFIED—VOTER QUALIFICATIONS, 1997 South Carolina Laws Act 15 (S.B. 76) (emphasis added). Article II, Section 4 of the South Carolina Constitution currently reads:

Every citizen of the United States and of this State of the age of eighteen and upwards who is properly registered is entitled to vote as provided by law.

S.C. Const. art. II, § 4. Thus, to the extent that prior opinions rely on Article II, Section 4 of the South Carolina Constitution before the 1997 amendment, we hereby overrule the reliance on the previous language “in the precinct of his residence and not elsewhere,” including, but not limited to, the April 11, 1978 opinion. Id.; Op. S.C. Att’y Gen., 1978 WL 22551 (S.C.A.G. April 11, 1978). As we will discuss below in our answer to your third question, South Carolina law changed in 1998 with the passage of Act No. 412. See Act No. 412, 1998 S.C. Acts. Act No. 412 of 1998 § 8, now South Carolina Code § 7-7-1000, authorizes municipalities to pool precincts in municipal elections. Thus, we affirm the conclusions in our April 11, 1978 with the exception of where the law has changed (i.e., the removal of “in the precinct of his residence” from Article II, Section 4 of the South Carolina Constitution and the addition of S.C. Code § 7-7-1000).

*1) S.C. Code Section 7-7-910(A) requires that in municipalities in which officers are elected by wards or other municipal subdivisions electors are to vote at the designated polling place. Does either a "ward" or "other[] municipal subdivision" equate to a "district"?*

As you reference in your question, South Carolina Code § 7-7-910 states that:

(A) Subject to the provisions of Section 7-7-920 and Section 7-5-440 and except as provided in subsection (B) of this section, each elector must be registered and, unless otherwise specified on his voting certificate, shall vote at the designated polling place within the precinct of his residence, but in incorporated municipalities in which officers are elected by wards or other municipal subdivisions, electors must be registered and shall vote at their designated polling places.

S.C. Code Ann. § 7-7-910 (1976 Code, as amended) (emphasis added). As a background regarding statutory interpretation, the cardinal rule of statutory construction is to ascertain the intent of the General Assembly and to accomplish that intent. Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003). The true aim and intention of the legislature controls the literal meaning of a statute. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813 (1942). The historical background and circumstances at the time a statute was passed can be used to assist in interpreting a statute. Id. An entire statute's interpretation must be "practical, reasonable, and fair" and consistent with the purpose, plan and reasoning behind its making. Id. at 816. Statutes are to be interpreted with a "sensible construction," and a "literal application of language which leads to absurd consequences should be avoided whenever a reasonable application can be given consistent with the legislative purpose." U.S. v. Rippetoe, 178 F.2d 735, 737 (4th Cir. 1950). The dominant factor concerning statutory construction is the intent of the legislature, not the language used. Spartanburg Sanitary Sewer Dist. v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984) (citing Abell v. Bell, 229 S.C. 1, 91 S.E.2d 548 (1956)). The first place to look in regards to interpreting the statute is to the legislative intent. There is no legislative history included that directly answers your question presented. Therefore, we will look to ordinary and common meanings of "wards or other municipal subdivisions." Black's Law Dictionary defines "ward" as:

ward (15c) 1. A person, usu. a minor, who is under a guardian's charge or protection. ...  
2. A territorial division in a city, usu. defined for purposes of city government. 3. The act of guarding or protecting something or someone. 4. *Archaic*. Someone who guards. 5. castle-guard. — Formerly also termed *warda*.

WARD, Black's Law Dictionary (10th ed. 2014). Black's Law Dictionary defines "municipal" as:

municipal *adj.* (16c) 1. Of, relating to, or involving a city, town, or local governmental unit. 2. Of, relating to, or involving the internal government of a state or country (as contrasted with *international*).

MUNICIPAL, Black's Law Dictionary (10th ed. 2014). Black's Law Dictionary defines "subdivision" as:

subdivision *n.* (15c) 1. The division of a thing into smaller parts. 2. A parcel of land in a larger development. — *subdivide, vb.*  
- illegal subdivision (1952) The division of a tract of land into smaller parcels in violation of local subdivision regulations, as when a developer begins laying out streets, installing sewer and utility lines, and constructing houses without the local planning commission's authorization.

- legal subdivision (1820) The governmentally approved division of a tract of land into smaller parcels using ordinary and legally recognized methods for surveying and platting land and publicly recording the results.

SUBDIVISION, Black's Law Dictionary (10th ed. 2014).

Black's Law Dictionary defines "district" in many ways, some of which are:

district (17c) 1. A territorial area into which a country, state, county, municipality, or other political subdivision is divided for judicial, political, electoral, or administrative purposes. 2. A territorial area in which similar local businesses or entities are concentrated, such as a theater district or an arts district. — Abbr. D.

- assessment district (1862) *Tax*. A usu. municipal subdivision in which separate assessments of taxable property are made.

...

- election district (18c) A subdivision of a state, county, or city that is established to facilitate an election or to elect governmental representatives for that subdivision.

...

- taxing district (1860) A district — constituting the whole state, a county, a city, or other smaller unit — throughout which a particular tax or assessment is ratably apportioned and levied on the district's inhabitants.

- water district (1876) A geographical subdivision created by a state or local government entity to provide the public with a water supply.

DISTRICT, Black's Law Dictionary (10th ed. 2014) (emphasis added). Based on a plain meaning of the above definitions, a "district" could mean "other municipal subdivision." We believe it is possible for one to equate "district" with a "ward" in this context based on the above definitions, but we would advise consulting the South Carolina Elections Commission for their legal opinion or seeking a declaratory judgment from a court of law for its interpretation.

Moreover, regarding voting in Dorchester County, South Carolina, State law designates the voting precincts. See S.C. Code Ann. § 7-7-230. Additionally, the law states that:

(B) The precinct lines defining the above precincts are as shown on maps filed with the Office of Research and Statistics of the Revenue and Fiscal Affairs Office designated as document P-35-14 and as shown on copies provided to the Board of Voter Registration and Elections of Dorchester County by the office.

(C) The polling places for the precincts provided in this section must be established by the Board of Voter Registration and Elections of Dorchester County.

S.C. Code Ann. § 7-7-230.

2) *S.C. Code Section 7-7-920 requires that in all municipal elections where council members are elected by "wards", electors are to vote at the "voting place" within their "ward" nearest their residences and in an at large election, they vote at the "precinct" nearest their residence.*

*(a) Are the terms "ward" and "district" interchangeable?*

*(b) For purposes of this section, does the term "precinct" mean "voting place"?*

As you reference in your second question, South Carolina Code § 7-7-920 states that:

In all municipal elections when the aldermen or councilmen are elected by wards, the electors shall vote at the voting place within their ward nearest their residences, and in all municipal elections when the aldermen, councilmen or other officials are elected by a vote at large within the municipality, the electors shall vote at the voting place in the precinct within which they reside which is nearest their residences. [] In all municipal elections when the ward lines and the precinct lines coincide within the city limits of the municipality, electors shall vote at the nearest voting place within the ward or precinct. [] In any city or town having not more than one polling precinct, established by ordinance, for municipal elections, all duly qualified electors shall be permitted to vote in municipal elections at such voting place if such electors are authorized to vote at any voting precinct within such city or town.

S.C. Code Ann. § 7-7-920 (1976 Code, as amended).

(a) § 7-7-920 discusses "wards," and based on our answer to your first question while it is possible the term could be interchangeable here with "districts," we would advise consulting the South Carolina Elections Commission for their legal opinion or seeking a declaratory judgment from a court of law for its interpretation.

(b) Based on the use of "voting place" in this statute, we do not believe a "voting place" is limited to a precinct, as a "voting place" could also be within a ward. S.C. Code Ann. § 7-7-920.

However, each municipality may set ward lines, as the law states that:

Each municipal governing body may by ordinance establish municipal ward lines and the time for general and special elections within the municipality. Public notice of the elections shall be given at least sixty days prior to such elections.

S.C. Code Ann. § 5-15-50. Moreover, this Office has previously opined in the 1978 opinion regarding "ward" and "precinct" that:

It is the opinion of our Office that the General Assembly alone has the power to establish voting precinct boundaries. However, it does not appear that only the General Assembly can draw ward lines.

In general the words precinct and ward may be used interchangeably and carry the same connotation. McQuillin, *Municipal Corporations*, Vol., 2, § 7.49; Oxford English Dictionary, 'Precinct'; BLACK'S Law Dictionary, 4th Ed., 'Ward'.

However, there is some law that states that a ward is not the same as a precinct. 29 C.J.S., Elections, § 1(10) c states in part that

[w]hile a ward, like a township, may be an election district, yet it is a more comprehensive term; an election district may be but part of a ward politically and physically.

A precinct is a geographical area for voting purposes. However, a ward may be a geographical area not only for voting purposes but for police, sewer, or park purposes. 29 C.J.S., Elections, § 1(10) c.

This rationale appears to have been adopted in this State. In the original provisions of municipal home rule, the municipal governing body was given the authority to establish ward lines and precinct lines. Section 5-15-50, South Carolina Code of Laws, 1976. In 1978, an act bearing ratification number 476 amended this provisions to specifically repeal the provisions authorizing a municipality to draw precinct lines. The statute now authorizes a municipality only to establish municipal ward lines.

Op. S.C. Att’y Gen., 1978 WL 22551 (S.C.A.G. April 11, 1978) (emphasis added). See also Op. S.C. Att’y Gen., 1987 WL 245420 (S.C.A.G. January 28, 1987). Also, South Carolina Code § 7-1-20(6) defines “voting or polling precinct” as:

(6) A “voting or polling precinct” means an area created by the legislature for convenient localization of polling places and which administers and counts votes therein as a local unit in all elections.

A “voting place” is a place within a voting or polling precinct where ballots may be cast.

S.C. Code Ann. § 7-1-20(6).

*3) Can the Town of Summerville elect to have a central polling place for each district or, in the alternative, have a central polling place for all municipal elections?*

First and foremost, this Office has previously opined regarding voting that:

Boundaries of voting precincts are to be established by the General Assembly, pursuant to Section 7-7-10, Code of Laws of South Carolina (1976, as amended), which provides that “[f]or the purpose of holding any general, primary or special election in this State the voting precincts and voting places in the several counties of the State shall be designated, fixed and established by the General Assembly.” See also Article VII, Section 13 of the State Constitution.

Op. S.C. Att’y Gen., 1987 WL 245420 (January 28, 1987). The full code section reads:

For the purpose of holding any general, primary, or special election in this State, the voting precincts and voting places in the several counties of the State shall be designated, fixed, and established by the General Assembly. Nothing in this

chapter prohibits a county board of voter registration and elections from establishing multiple polling places within a precinct, provided that voters are assigned to these polling places alphabetically or geographically as determined by the county board of voter registration and elections and approved by a majority of that county's legislative delegation. A voter must be notified in writing of his transfer to a new polling place and the location of the new polling place.

S.C. Code Ann. § 7-7-10. Moreover, this Office has previously concluded that “the municipalities no longer have the authority to establish precinct lines, [so] they would not be able to pool all the precincts in a municipality for municipal elections as this would in effect be authorizing a municipality to establish precinct lines.” Op. S.C. Att’y Gen., 1978 WL 22551 (April 11, 1978). However, South Carolina law is also clear in authorizing the pooling of municipal precincts by meeting five conditions. S.C. Code Ann. § 7-7-1000. Quoting the law, it states that:

For purposes of municipal elections only, a municipality may pool one or more precincts with other precincts and have one voting place for all of these pooled precincts upon the following conditions:

- (1) Any precinct which contains five hundred or more registered voters within the municipality must have its own voting place.
- (2) The total number of registered voters within the municipality in each group of pooled precincts cannot exceed one thousand five hundred.
- (3) The voting place of any precinct pooled with others cannot be more than three miles from the nearest part of any pooled precinct.
- (4) The notice requirements of § 7-7-15 must be complied with and in addition to this requirement, the location of voting places for all precincts including those pooled must be published in a newspaper of general circulation in the municipality on the day of the election. If the newspaper is not published daily, then on the date of publication nearest and prior to the date of election.
- (5) Whenever precincts are pooled in a municipal election, the voter registration lists, poll lists, and ballots for each precinct represented must be used by the managers of election. Results of the election must also be reported and certified by individual precinct.

S.C. Code Ann. § 7-7-1000 (emphasis added). Certainly, if your municipality meets all five requirements listed in the statute, it may, for “municipal elections only,” have “one voting place for all” of its pooled precincts. Id. Moreover, the statute is clear in authorizing “one voting place for all of these pooled precincts” but allows the municipality to pool “one or more precincts with other precincts.” Id. Thus, the precincts may all be pooled together to have a central polling place for all pooled precincts or the town may pool some of its precincts with a central polling place for just those precincts that are pooled. Whether “district” can be used interchangeably here with “precinct,” let us look to a plain meaning. Again, as stated above, South Carolina Code § 7-1-20(6) defines “voting or polling precinct” as:

- (6) A “voting or polling precinct” means an area created by the legislature for convenient localization of polling places and which administers and counts votes therein as a local unit in all elections.

A “voting place” is a place within a voting or polling precinct where ballots may be cast.

S.C. Code Ann. § 7-1-20(6). Additionally, Black’s Law Dictionary defines “precinct” as:

precinct (15c) A geographical unit of government, such as an election district, a police district, or a judicial district.  
- magisterial precinct (1894) A county subdivision that defines the territorial jurisdiction of a magistrate, constable, or justice of the peace. — Also termed *magisterial district*.

PRECINCT, Black’s Law Dictionary (10th ed. 2014). Thus, Black’s includes within the definition of “precinct” an “election district.” Thus, if the districts you refer to are the precincts set by the General Assembly, then South Carolina Code Ann. § 7-7-1000 would apply, but if they differ, you could substitute the word “district” within the statute and have the same meaning. However, South Carolina Code § 7-7-10 is still clear in distinguishing that the General Assembly has the authority to designate and establish precincts while a municipality may designate polling places within a precinct. S.C. Code Ann. § 7-7-10.

Nevertheless, “[w]hen one voting place has been changed to another in the same township or polling precinct, or when the name of the voting place has been changed since the last general election, the registration of electors for the former voting place shall be valid and effectual for the new voting place.” S.C. Code Ann. § 7-7-970 (1976 Code, as amended). Furthermore, the law is clear that in order to change a polling place:

When a polling place established by statute or ordinance or by an entity allowed by law to establish polling places is changed the entity charged with conducting elections at the polling place shall post at the time of the first election held after the change a notice on or next to the door of the entrance of the previous polling place stating in printing with letters large enough to be read easily by a person with normal vision from a distance of at least twenty feet the location of the new polling place and the address and telephone number of the entity in charge of the conduct of the election.

S.C. Code Ann. § 7-7-15 (1976 Code, as amended).

**Conclusion:**

Based on the reasons above, we affirm our April 11, 1978 prior opinion’s conclusion that “municipalities no longer have the authority to establish precinct lines, [so] they would not be able to pool all the precincts in a municipality for municipal elections as this would in effect be authorizing a municipality to establish precinct lines” with the understanding that the General Assembly determines voting precincts and that South Carolina Code § 7-7-1000 was added in 1998 to authorize the pooling of precincts in municipal elections after meeting certain conditions. Thus, to answer your initial question, § 7-7-1000 authorizes central polling places for precincts in municipal elections after meeting five (5) conditions. Regarding your other questions, § 7-7-920 discusses “wards” and while it is possible the term could be interchangeable with “districts,” we would advise consulting the South Carolina Elections



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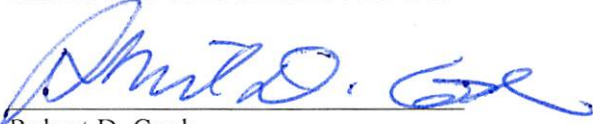
Commission for their legal opinion or seeking a declaratory judgment from a court of law for its interpretation; a "district" could mean "other municipal subdivision;" and based on the use of "voting place" in § 7-7-920, we do not believe a "voting place" is limited to a precinct, as a "voting place" could also be within a ward pursuant to S.C. Code Ann. § 7-7-920. Furthermore, we cannot change the word in S.C. Code Ann. § 7-7-1000 from "precinct" to "district" without losing the meaning unless the district lines are the equivalent of the precinct lines. We trust the above answers to your questions will assist you. However, this Office is only issuing a legal opinion based on the current law at this time and the information as provided to us. We also advise you to coordinate with the South Carolina Elections Commission in answering your questions. This opinion is not an attempt to comment on any pending litigation or criminal proceeding. Until a court or the General Assembly specifically addresses the issues presented in your letter, this is only an opinion on how this Office believes a court would interpret the law in the matter. This opinion only addresses some of the sources in the subject area, but we can address other authority or additional questions in a follow-up opinion. Additionally, you may also petition the court for a declaratory judgment, as only a court of law can interpret statutes and make such determinations. See S.C. Code § 15-53-20. If it is later determined otherwise, or if you have any additional questions or issues, please let us know.

Sincerely,



Anita (Mardi) S. Fair  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General