

1976 WL 30885 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 3, 1976

*1 T. H. Rawl, Jr., Esquire
Lexington County Attorney
Post Office Box 856
Lexington, South Carolina 29072

Dear Mr. Rawl:

In response to your request for an opinion from this Office as to whether or not hold over members of the Lexington County Council have a whole vote or a one-half vote after January 1, 1977, my opinion is that they will have a whole vote. I can find nothing in the provisions of Act No. 283 of 1975, the 'home rule' legislation, that indicates in any way that the hold-over members of county council are to be treated in a manner different from the newly elected members. The language of Sections 14-3701(e) and 14-3717(3)(a), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), indicates that the hold-overs are to continue to serve the terms for which they were elected without any diminution or other change in their powers. The fact that a new council member is elected from a single member election district in which a hold-over happens to reside does not result in over-representation of that area such that the vote of both resident council members should be halved. The hold-overs were elected by a different electorate and will continue to represent that electorate until their terms of office expire. On the other hand, the new members of the council were elected by the voters of each single member election district only and, consequently, will represent only those voters; there will not be, then, during the transition period expressly provided for in Section 14-3717(3)(a) of the Code, two people serving from one district at one time in violation of the one man one vote principle. See generally, Dallas County v. Reese, 44 L. Ed. 2d 132 (1975).

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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