

1975 WL 29120 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 4, 1975

*1 Act No. 283 of 1975, the 'home rule' legislation, does not authorize the qualified electors of a county to propose an ordinance by initiative and referendum to change the method of selecting the chairman of the county governing body.

TO: The Honorable Irene K. Rudnick
Member
House of Representatives

QUESTION PRESENTED

Does Act No. 283 of 1975 authorize the qualified electors of a county to propose an ordinance by initiative and referendum to change the method of selecting the chairman of the county governing body?

CASES, STATUTES, ETC., INVOLVED

Act No. 283 of 1975.

57 STAT. Act No. 1078 at 2249 (1972).

DISCUSSION OF ISSUES

There are several provisions in Act No. 283 of 1975 concerning the method of selecting the chairman of the governing body of the county. Section 14-3706 provides in part:

In those counties in which the chairman of the governing body was elected at large as a separate office prior to the adoption of one of the alternate forms of government provided for in this chapter, the chairman shall continue to be so elected.

Act No. 1078 of 1972 [57 STAT. Act No. 1078 at 2249 (1972)] presently requires the chairman of the Aiken County Board of Commissioners to be elected at large as a separate office.

Section 14-3708 states:

The council shall select one of its members as chairman, except where the chairman is elected as a separate office, . . .

The Articles prescribing the council-supervisor form and the board of commissioners form contain specific provisions concerning the chairman of the respective governing bodies. See, § 14-3730; § 14-3771.

Sections 14-3790 through 14-3792, which provide for the enactment and repeal of ordinances by popular initiative and referendum, must be read in conjunction with the aforementioned sections and, when they are so read, it is clear that they provide no authority for determining the method of selection for the chairman of a county's governing body.

CONCLUSION

The opinion of this office is, therefore, that Act No. 283 of 1975, the 'home rule' legislation, does not authorize the qualified electors of a county to propose an ordinance by initiative and referendum to change the method of selecting the chairman of the county governing body.

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