

1975 S.C. Op. Atty. Gen. 216 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4147, 1975 WL 22443

Office of the Attorney General

State of South Carolina

Opinion No. 4147

October 3, 1975

*1 The present Pickens County Council members will continue to serve as such until the expiration of their respective terms of office, notwithstanding that county's selection of the single member election district method of election for members of the governing body pursuant to Section 14-3701(a) of Act No. 283 of 1975, the 'home rule' legislation.

TO: The Honorable Harris P. Smith
Senator
Pickens, Abbeville, Anderson and Oconee Counties

QUESTION PRESENTED

If Pickens County selects the single member election district method of election by referendum conducted pursuant to Section 14-3701(a) of Act No. 283 of 1975, the 'home rule' legislation, when will the terms of the present Pickens County Council members expire?

STATUTES, CASES, ETC., INVOLVED

Act No. 283 of 1975.

56 STAT. Act No. 330 at 404 (1969).

DISCUSSION OF ISSUES

Act No. 283 of 1975, in Section 14-3701(a) thereof, provides that any county in the State may hold a referendum to select either an at large or a single member election district method of election for the council members of that county's new governing body. The Act also contains several provisions which relate to the status of the unexpired portions of terms of office of present members of county governing bodies, to wit:

All members of the governing bodies of the respective counties serving terms of office on the date on which a particular form of county government becomes effective shall continue to serve the terms for which they were elected or appointed and until their successors are elected or appointed and have qualified. [§ 14-3701(e).]

After one of the forms of county government, . . . , provided for in this act has been adopted and becomes effective, to insure an orderly transition from existing forms of government, the following procedures shall be initiated and carried out by each county council:

(3) Take all other necessary actions to implement the form of government adopted and the transition to that form including but not limited to:

(a) a schedule for the election of council members and supervisors when appropriate based on the expiration of terms of persons serving unexpired terms when a new form of government becomes effective. Composition of councils need

not conform to the numerical requirements prescribed for the form adopted until such unexpired terms are completed. [§ 3(3)(a).]

Clearly, then, the Act does not cut short the unexpired portion of the terms of office of the members of a county's present governing body.

Pickens County is presently governed by a five-member council elected at large for staggered four-year terms. See, 56 STAT. Act No. 330 at 404 (1969). The terms of office of the two members of the initial council who served two-year terms will expire on January 1, 1977. The terms of office of the three members of the initial council who served four-year terms will expire on January 1, 1979. Even if the single member election district method of election for the members of its new governing body is selected for Pickens County, the unexpired portion of those terms will not be affected thereby.

CONCLUSION

*2 The opinion of this office is, therefore, that the present Pickens County Council members will continue to serve as such until the expiration of their respective terms of office, notwithstanding that county's selection of the single member election district method of election for members of the governing body pursuant to Section 14-3701(a) of Act No. 283 of 1975, the 'home rule' legislation.

Karen LeCraft Henderson
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