

1974 WL 27654 (S.C.A.G.)  
Office of the Attorney General  
State of South Carolina  
March 1, 1974

\*1 Honorable Harold B. King  
Member  
House of Representatives  
Oconee County  
Route 2  
Box 313  
Westminster, South Carolina 29693

Dear Mr. King:

Act No. 555 of 1971 (71 Acts 1047) provides for the creation of a County Council form of government for Oconee County, subject to approval thereof by a majority of the registered electors of the County. Section 2 of the Act provides for the election of five County Council members from the County at large.

You have inquired whether County Council members may be elected from certain areas, but voted on at large, the residence of the Council member in such circumstances being required to be within a specific area.

From a federal standpoint, it is probable that this form of representation would be acceptable, although no complete and confident assurance can be given in this respect. There is dicta in a case dealing with a former Senate Reapportionment Plan which would sustain such a proposal. [McLeod v. West](#), C.A.No. 71-1123, decided by three-judge panel, April 7, 1972, D.S.C. Article I, Section 5, of the State Constitution provides that all electors shall have an equal right to elect officers and be elected to fill public office. The State Supreme Court has not considered the application of this provision in the context of a proposal of the type about which you inquire. What its resolution of the problem would be is therefore uncertain. There are many factors to be considered, such as the transitional nature of a Plan, but, in any event, I feel that if the areas are as near equal in population as possible, its probability of approval would be greatly enhanced. [Fortson v. Dorsey](#), 379 U.S. 433; [Dusch v. Davis](#), 387 U.S. 112.

It is therefore my opinion that the Plan about which you inquire has a fair degree of being acceptable, but that no complete assurance in this respect can be given. I also feel that if the various districts are made as equal in population as possible, the probability of approval would be better assured.

With best wishes,  
Very truly yours,

Daniel R. McLeod  
Attorney General

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