

1974 WL 27490 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 21, 1974

*1 The Honorable James B. Ellisor
Executive Director
State Election Commission
Post Office Box 5987
Columbia, South Carolina 29250

Dear Mr. Ellisor:

You have requested the opinion of this Office concerning the effect of Act No. 1235 of the 1974 Acts and Joint Resolutions (R-1470, S-352) on the present election. This act was submitted to the United States Department of Justice on August 22, 1974, for their consideration under the Voting Rights Act. On October 17, 1974, I received a telephone communique from the United States Department of Justice informing me that they had approved the above-cited act; however, I do not at this time have written confirmation of their approval. Under the requirements of the Voting Rights Act, no changes in laws which affect voting can be implemented until they are approved by the United States Department of Justice. Therefore, this act was not legally enforceable until at least October 17 when telephone confirmation of its approval was received by this Office.

This act makes multiple changes in the election laws of this State; however, the changes that are of specific concern at this time are Sections 4, 5 and 6 of this act.

These changes relate to the filing times for petitions for nomination of candidates.

The new filing times have already passed. Compliance with the law is therefore impossible and it is my opinion that they do not control as to nominations by petition for elections to be held on November 5.

The same views are applicable with respect to the changes which relate to requirements as to what nominating petitions shall contain. These changes require that the signature of the voter be set forth, as well as his residence, his voter registration certificate number, and his precinct.

Compliance with the new requirements cannot, in my opinion, be constitutionally imposed and nominating procedures under prior law shall therefore be considered as controlling. Adequate time must be given for compliance with the new statutes which will be applicable for future elections after November 5.

I emphasize also that I have received no official notification of approval of the new statutes by the Department of Justice.
Very truly yours,

Daniel R. McLeod
Attorney General

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