

## **LWVSC STUDY: SCHOOL DISTRICT STRUCTURE AND AUTHORITY**

### **Court Cases on Local Legislation Re School Districts in South Carolina**

1. Ben R. Moye, appellant v. Ben Caughman et.al., defendants. The case involved Act 1181, enacted in 1974 which changed the method of electing the school boards for Lexington County. The plaintiff argued that this local legislation violated Article VIII Section 7 of the constitution, which reads “The General Assembly shall provide by general law for the structure, organization, powers, duties, functions, and the responsibilities of counties, including the power to tax different areas at different rates of taxation related to the nature and level of governmental services provided. Alternative forms of government, not to exceed five, shall be established. No laws for a specific county shall be enacted and no county shall be exempted from the general laws or laws applicable to the selected alternative form of government. The plaintiff cited a case involving creation of a special purpose district for recreation in Dorchester County after the constitutional provision for county home rule had been ratified. The trial judge found that this case did not apply to school districts because public education is not the duty of counties but of the General Assembly. The trial judge was upheld by the state Supreme Court.
2. There was a peripheral case in 2001 (Horry County School District v. Horry County and the City of Myrtle Beach) having to do with the allocation of revenues from a multicounty business park among the taxing entities in Horry County. The court upheld the allocation determined by the County Council.
3. A more recent case that never got to the filing stage was in Pickens County, where the county delegation stripped the Pickens County school board of its three at-large members by special legislation. This issue in this case was the weighting of votes in the delegation. In 1999, there was a question raised in Vander Linden v. Hodges, 193 F.3<sup>rd</sup> 268 (4th Cir. 1999) about weighted voting, as opposed to each member of the delegation getting one vote. Since legislative districts cross county lines, some legislators represent only the voters of the affected county, others have only a small percentage of their voters in the county affected by the proposed legislation. In the Pickens case, the two Senators representing parts of Pickens County 81% (Martin, all Pickens) and 19% (Alexander, all of Oconee and 19% of Pickens, including the Clemson-Central-Six Mile area). Therefore there is no possibility for that part of the county to have its preferences heard and they are essentially unrepresented in local legislation. However, a legal opinion by Attorney General Henry McMaster held that the vote is in fact the entire Senate (or House), not just the delegation. It is true that it is the custom and practice for legislators from other counties to defer to the wishes of the delegation from that county, but that is custom rather than law.