



BEAUFORT COUNTY COUNCIL

Board of Elections & Registration

15 John Galt Road

P.O. Drawer 1228

Beaufort, SC 29901-1228

(843) 255-6900 | voter@bcgov.net

September 6, 2011

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Executive Director

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Rupert Williams

Marci Andino
Executive Director
South Carolina Election Commission
2221 Devine Street
P.O. Box 5987
Columbia, SC 29250-5987

Dear Ms. Andino,

In a special meeting on August 31, 2011, the Beaufort County Board of Elections and Registration reviewed all available information pertinent to the 2012 election cycle Presidential Preference Primaries. This information included applicable provisos in the State of South Carolina's 2012 General Appropriations Budget; the South Carolina Attorney General's Opinion dated June 27, 2011, and the applicable portions of South Carolina Code of Laws referenced within it; and public statements by representatives of the South Carolina Election Commission. From this review, and in a unanimous vote, the Board adopted the following positions:

1) **We reject the conclusion that the South Carolina Election Commission has the authority to require the conduct of Presidential Preference Primaries by the respective county election commissions of South Carolina.** We base this position on the absence of statutory authority for the South Carolina Election Commission to direct county election commissions to conduct Presidential Preference Primaries. In doing so, we are fully cognizant of the South Carolina Attorney General's Opinion dated June 27, 2011. Further, we reject the Attorney General's argument and consequent opinion that, in spite of The South Carolina Code of Laws §7-11-20(B)(2)'s specific reference to the November, 2008 election cycle, the contents of this paragraph were intended to apply for all time. We do not believe this to be the intent of the South Carolina General Assembly, and in doing so we reject the opinion. The issue of the 2012 election cycle Presidential Preference Primaries was fully debated in both the House and Senate in the 2011 session of the South Carolina General Assembly. Lawmakers were fully aware of the time-specificity of §7-11-20(B)(2) and chose to leave the statute as is. This clear wording, coming at the very beginning of §7-11-20(B)(2), is the best demonstration of legislative intent.

We also reject the publicly stated opinion of the South Carolina Election Commission's spokesperson that, as a result of the Attorney General's opinion referenced above, "we

[South Carolina Election Commission] not only have the authority but a mandate to run the primary." "Authority" and "mandate" carry entirely different meanings. We do not find any evidence of a mandate in the opinion of the Attorney General and object to any inference of one.


2) In the event that the Beaufort County Board of Elections and Registration must conduct Presidential Preference Primaries in the 2012 election cycle, we object to the use of any public funds to facilitate the event(s). Our position is in line with Governor Haley's comments in her veto message of June 28, 2011 that "private dollars are the appropriate way to fund a partisan Presidential Primary," and that "it should not fall on the taxpayers to cover the expense." We understand that budget Provisos 79.6 and 79.12 will allow for the use of carryover funds from previous primaries, and that there will likely be resources garnered from candidate filing fees to also help with primary expenses. We are unaware, however, if these funds combined will cover all expenses necessary to conduct a preference primary event of a quality that will instill in our voters a sense of confidence in the election system.

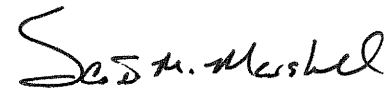
Our County Council, like many others in the state, continues to struggle to keep taxes level while maintaining core services for its citizens. We have already seen mandatory furloughs for county employees, the Beaufort County Board of Education's difficult decision to close schools and force consolidation of students, a major reduction of personnel and customer service hours in our library system, reductions in services offered by our Parks and Leisure Services, moratoriums on filling vacant positions, and many other difficult fiscal decisions which have been made in just the last six months. We cannot, in good conscience, advocate the use of any Beaufort County fiscal resources to subsidize events for political parties when it is already a challenge to maintain day-to-day quality of life for our residents. In fact, we do not view conducting Presidential Preference Primaries an appropriate use of taxpayer funds under any circumstances.

We ask that the South Carolina Election Commission reconsider its role and the role of the county election commissions in the pending Presidential Preference Primaries.

Very Sincerely Yours,

Beaufort County Board of Elections and Registration


Tyrone S. Clifford
Chairman


Scott M. Marshall
Executive Director

Cc:

John H. Hudgens, III, Chairman, South Carolina Election Commission
Cynthia M. Bensch, South Carolina Election Commission
Marilyn Bowers, South Carolina Election Commission
Pamella B. Pinson, South Carolina Election Commission
Thomas Waring, South Carolina Election Commission
Nikki R. Haley, Governor of South Carolina
Alan Wilson, South Carolina Attorney General
Glenn F. McConnell, President, *Pro Tempore*, South Carolina Senate
Bobby Harrell, Speaker, South Carolina House of Representatives
Tom Davis, Senator, District 46
Clementa Pinckney, Senator, District 45
William G. "Bill" Herbkersman, Representative, District 118
Shannon S. Erickson, Representative, District 124
Andrew S. "Andy" Patrick, Representative, District 123
Kenneth F. Hodges, Representative, District 121
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Joshua Gruber, Beaufort County Council Staff Attorney
Chad Connelly, Chairman, South Carolina Republican Party
Dick Harpootlian, Chairman, South Carolina Democratic Party
Jerry Hallman, Chairman, Beaufort County Republican Party
Blaine Lotz, Chairman, Beaufort County Democratic Party
Lynn Fata, President, South Carolina Association of Registration and Election Officials
Michael B. Cone, Executive Director, South Carolina Association of Counties
Joe Wilson, Member of Congress representing South Carolina's 2nd District