

1984 WL 249965 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 22, 1984

*1 Mr. J. Lewis Cromer
County Attorney
Office of the County Attorney
1701 Main Street
Suite 405
P. O. Box 192
Columbia, South Carolina 29202

Dear Mr. Cromer:

You have asked to be advised as to the applicability of a Richland County ordinance to Richland County School District One. See § 2-142, Richland County Code. This ordinance requires the county attorney's prior approval before any office or entity in the county which receives county funds employs an attorney other than the county attorney. I have previously corresponded with Mr. Dennis Aughtry, Assistant County Attorney, about this matter.

In response to your request, I am enclosing a copy of a previous opinion of this office holding that a school district has the authority to employ counsel in matters concerning the corporate rights and functions of a school district. 1963 Ops. Atty. Gen. #1602; see also § 59-17-10 of the Code of Laws of South Carolina (1976); Paslay v. Brooks, 198 S.C. 345, 17 S.E.2d 865 (1941); 68 Am.Jur.2d Schools §§ 17-20; 75 ALR.2d 1339. cf. Act 512, Part II § 48, Acts and Joint Resolutions of South Carolina, 1984. Nothing in the laws applicable to Richland County School District One is inconsistent with the application of that opinion to that district. See § 21-3918 of the 1962 Code; Act 585 § 2, Acts and Joint Resolutions of South Carolina, 1971.

Richland County Council's authority to determine the school tax levy for District One indicates no authority to limit District One's power to employ counsel by requiring that district to obtain the approval of the county attorney prior to the employment of counsel. Act 280 § 2, 1979. Any such power in council would be inconsistent with that contemplated for counties generally. See § 4-9-70; Act XI § 3, Constitution of South Carolina, 1895, as amended; Moye v. Caughman, 265 S.C. 140, 217 S.E.2d 36, 37 (1975). Although the Richland County Council was given at least some of the powers of the old Richland County Board of Education by Act 140 of 1969, a prior law appears to have limited the old County Board's jurisdiction to matters outside of District One except as to consolidation under § 59-17-50. See § 21-3913 of the 1962 Code; Ops. Atty. Gen. (February 23, 1984). See also R. 341 and R. 342, 1984.

In conclusion, Richland County Council does not appear to have the authority to limit District One's power to employ counsel by requiring the prior approval of such arrangements by the county attorney. If we may be of other assistance, please let us know.

Very truly yours,

J. Emory Smith, Jr.
Assistant Attorney General

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