

1984 WL 250030 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 31, 1984

*1 Honorable John D. Bradley
Member
House of Representatives
1063 Northbridge Drive
Charleston, South Carolina 29407

Dear Representative Bradley:

You have asked out advice concerning the correct interpretation of that portion of [Section 42-3-20 of the Code](#) which relates to the appointment of three-member panels of members of the Industrial Commission to conduct full Commission reviews. Specifically, you wish to know the meaning of the phrase 'other commissioners' as used in that section and whether the phrase means all other members of the Industrial Commission or a three-member panel selected by the Chairman. As more fully reflected below, it is our conclusion that the phrase references all other members of the Commission.

[Section 42-3-20](#) provides in part for full Industrial Commission reviews of decisions rendered by a single hearing commissioner. In 1981, [§ 42-3-20](#) was amended to provide in pertinent part:

provided, however, that effective July 1, 1981, full commission reviews may be conducted by three-member panels composed of three commissioners appointed by the chairman excluding the original hearing commissioner. The chairman, with unanimous approval of the other commissioners, shall determine which full commission reviews shall be assigned to panels. The decisions shall have the same force and effect as nonpanel full commission reviews. (emphasis added).

This portion of [§ 42-3-20](#) was originally enacted as part of the 1981-82 Appropriations Act. See, 1981 Act No. 178 Part II, § 15.

As with any act of the Legislature, the paramount consideration is, of course, the intent of the General Assembly. [City of Spartanburg v. Leonard](#), 180 S.C. 491, 186 S.E. 395 (1936). A statute must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers. [Caughman v. Columbia Y.M.C.A.](#), 212 S.C. 337, 47 S.E.2d 788 (1948). The Act is to be read and understood according to the natural and obvious meaning and the import of the language without resort to subtle and forced construction for the purpose either of limiting or extending its operation. [Weston v. Board of Commrs. of Police Insurance and Annuity Fund](#), 196 S.C. 491, 13 S.E.2d 300 (1941). Words used are to be given their usual and ordinary meaning. [Windham v. Pace](#), 192 S.C. 271, 6 S.E.2d 270 (1940). Courts are not permitted to speculate as to the intention of the Legislature when the language used is plain and unambiguous and when the meaning of the words is obvious. [Independence Ins. Co. v. Ind. Life and Acc. Co.](#), 218 S.C. 22, 61 S.E.2d 399 (1950).

Applying these general rules, it is apparent that the phrase 'with unanimous approval of the other commissioners' refers to all other members of the Commission in addition to the Chairman. The word 'other' normally means 'remaining' or the remaining one or ones of two or more. See, [Webster's New World Dictionary](#), 'Other' (2d Coll.ed.); [Webster's Third New International Dictionary](#), 'Other' (1964). Thus, when the General Assembly employed the phrase 'other' commissioners, it is reasonable to assume, absent evidence to the contrary, that all remaining commissioners (in addition to the Chairman) were intended to be included. No contrary intent is evidenced by the statute.

*2 Indeed, such a reading is consistent with other portions of the statute which must be read as a whole. [State v. Columbia Ry. Gas and Elec. Co.](#), 112 S.C. 528, 100 S.E. 355 (1919). The General Assembly has been careful to specify the exact number

of commissioners when, in a given instance, it intended less than the full commission. See, § 42-3-20. [‘Full Commission reviews shall be conducted by six commissioners only . . .’; ‘. . . five remaining commissioners’; ‘vote of at least four commissioners . . .’]. On the other hand, when the Legislature used the term ‘commission’ or ‘commissioner’ such has always meant the full Industrial Commission, unless otherwise specified. See, § 42-1-80 [‘commission’ defined]; § 42-3-100 [‘commissioners’ shall annually prepare budget]; § 42-3-110 [‘commissioners’ shall approve all expense and travel vouchers]. As our Supreme Court noted many years ago in [Riddle v. Fairforest Finishing Co., et al.](#), 198 S.C. 419, 423, 18 S.E.2d 341 (1942), the original Industrial Commission Act itself defines the term ‘commission’ to mean the South Carolina Industrial Commission, and of course that means [those] . . . who are appointed commissioners to administer the Act, and must mean all of them and not just one of them. [emphasis added]

Therefore, unless specified otherwise, such term has traditionally referred to the full Commission. Since it would have been a simple matter for the General Assembly here to specify less than the full Commission and yet it did not do so, it must be presumed that is not the meaning the General Assembly intended.

Finally, and most importantly, an interpretation of § 42-3-20 which includes all commissioners in the decision to assign three-member panels appears the most reasonable. The proviso in question was added in 1981 to allow for the first time the Commission to conduct full commission reviews in three-member panels. Formerly, such reviews were normally conducted only by the full Commission membership, excluding the original hearing commissioner.

Of course, provisos, such as the one here, generally are to be read narrowly and to have departed from the main body of the act to the least extent possible. See, [Barringer v. Dinkler Hotels, Inc.](#), 61 F.2d 82 (1932). And in this instance, such a construction is especially warranted. If the Act were interpreted to authorize the decision as to which cases to assign to a designated three-member panel, such could effectively eliminate the remaining commissioners from any participation whatever in the assignment or review process. Where the General Assembly has otherwise mandated ‘full commission’ reviews and has further provided that departure from the usual full Commission review requires consent of the chairman with ‘unanimous’ approval of the other Commissioners, such an interpretation would not, in our judgment, be warranted without express statutory language. No such language is present here. The proviso does not contemplate a three-member panel making decisions regarding the assignment of cases; and expressly provides only for the hearing of cases by three-member panels. The selection of cases to be heard by the panels remains the responsibility of the Chairman with the unanimous approval of the Commission.

*3 In summary, it is our conclusion that § 42-3-20 requires approval of the full Industrial Commission in order to assign three-member panels in lieu of full commission review. I understand that this interpretation is, however not shared by the majority of the members of the Industrial Commission. In responding to your request for advice and providing you with my legal research, it should not be construed as advocating any position for or against any member or members of the Industrial Commission who themselves have the responsibility to interpret to the best of their ability the statutes relating to the discharge of their duties. And, of course, final resolution of any dispute among members of the Commission can come only from the courts or the General Assembly.

Sincerely,

Edwin E. Evans
Senior Assistant Attorney General

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