

1979 WL 42741 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 9, 1979

*1 Purvis W. Collins
Director
South Carolina Retirement System
P. O. Box 11960
Bankers Trust Tower
Columbia, South Carolina 29211

Dear Mr. Collins:

You have requested an opinion as to the legal status of the Greenwood County Alcohol and Drug Abuse Commission for social security purposes, and whether it is an 'employer' under [§ 9-3-20\(9\), 1976 Code of Laws](#). Specifically, the question is whether the Commission is an agency of Greenwood County or whether it is a political subdivision of Greenwood County. The Commission was created by Act No. 682 of 1973, as amended. Its members are appointed by the governing body of Greenwood County. Its functions are generally to formulate and administer an alcohol and drug education program with the cooperation of state and federal agencies. Among its powers are the power to acquire land, to expend all money which it shall receive, to accept state, federal and county funds and to support and direct alcohol and drug abuse programs in the county. [Section 9-3-20\(6\)](#) defines 'political subdivisions' for purposes of social security coverage only as including any instrumentality 'which is legally separate and distinct from the [county] . . . if its employees are not by virtue of their relation to such juristic entity employees of the [county].' The only thing which might clearly point to the Commission's employees being county employees was the former practice of carrying them on the county payroll; however, during at least part of the time that this was done if not all the time, it was clear that they were not paid by the county because the statute at the time (§ 4(h)) provided that county funds could not be requested, accepted or expended by the Commission. It thus appears that the employees were merely carried on the county payroll system for convenience of administration; in any event, these employees are not presently on the county payroll system. It is also apparent that the Commission is in fact legally separate and distinct from the county because the statute which created it gives it a number of independent functions such as acquiring land, controlling its own budget, making its own rules, etc. By contrast, [§ 4-9-30\(6\)](#), which deals with county agencies, provides that the governing body of the county may prescribe the functions of such agencies and regulate, modify, merger or abolish any such agencies. Such power to regulate is absent in this situation, as is the power to merge and abolish the agency, because it was created by statute.

For the foregoing reasons, it is the opinion of this Office that the Greenwood County Alcohol and Drug Abuse Commission constitutes a political subdivision of Greenwood County for purposes of social security coverage.

Sincerely yours,

Kenneth P. Woodington
Assistant Attorney General

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