

1980 WL 120656 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 5, 1980

*1 H. F. Bell, Esquire
Chesterfield County Attorney
Post Office Box 189
Chesterfield, South Carolina 29709

Dear Mr. Bell:

With apologies for the delay, I am writing in response to your request for an opinion from this Office concerning the powers of the Chesterfield County Municipal Hospital Board of Trustees (Board).

The Board was created in 1955 by Act No. 428 of that year. 49 STAT. 881 (1955). The Act recites that the Board:
. . . is created for the purposes of constructing, building, equipping and establishing and operating a county hospital . . . 49 STAT. § 6 at 883. [Emphasis added.]

Section 13 of the Act empowers the Board to 'select all officers and employees of the hospital.' 49 STAT. § 13 at 884. These provisions impose duties upon the Board itself, which duties, in my opinion, cannot be delegated by it to another entity. 2 McQUILLIN MUNICIPAL CORPORATIONS § 10.39 (3rd ed. 1966). Furthermore, there is no language in the Act which either expressly or impliedly authorizes the Board to dispose of the hospital facilities and/or assets. Cf., 59 STAT. 1480 (1976); [Gilbert v. Bath](#), 267 S.C. 171, 227 S.E.2d 177 (1976). Consequently, my opinion is that the Board cannot sell the present hospital assets and contract with another entity (public or private) to build and operate another hospital. Similarly, there is no language in the Act which either expressly or impliedly authorizes the Board to merge with another hospital, close both facilities and build a new hospital.

Inasmuch as amendatory legislation that would empower the Board to perform these functions is prohibited by the 'no laws for a specific county' language of [Article VIII, Section 7 of the South Carolina Constitution](#) as interpreted by the South Carolina Supreme Court, the only means by which it can be so empowered would be by an ordinance duly enacted by the Chesterfield County Council which, as of January 1, 1980, has the authority to enact ordinances in conflict with local laws relating to Chesterfield County. 59 STAT. Act No. 283, SECTION 3 at 716 (1975). See generally, [Griggs et al. v. Hodge, et al](#), 229 S.C. 245, 92 S.E.2d 654 (1956).

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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