

1979 WL 42873 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 19, 1979

***1 RE: Personnel Policy of the Walterboro-Colleton County Recreation Commission**

Mr. John C. Lemacks
Chairman
Walterboro-Colleton County Recreation Commission
Post Office Box 173
Walterboro, South Carolina 29488

Dear Mr. Lemacks:

You have recently asked this Office for its opinion as to whether the Walterboro-Colleton County Recreation Commission may be required to adopt the personnel policy of the county as a condition of receiving county funds.

The Walterboro-Colleton County Recreation Commission was created by the General Assembly when it enacted Act No. 628 of the 1973 Local and Temporary Laws of South Carolina. Section 5 of the Act, which lists the powers and duties of the Commission, provides in part that the Commission has the authority: to appoint agents, employees and servants, to prescribe their duties, to fix their compensation, to determine if and to what extent they shall be bonded for the faithful performance of their duties.

The Supreme Court of this State has held in various circumstances that a governmental entity cannot abdicate its statutory authority and relinquish that authority to individuals or organizations. [Gold v. South Carolina Board of Chiropractic Examiners](#), 271 S.C. 74, 245 S.E.2d 117 (1978); [Gould v. Barton](#), 256 S.C. 175, 181 S.E.2d 662 (1971); and [Newman v. McCullough](#), 212 S.C. 17, 46 S.E.2d 252 (1948). Unless provided otherwise by statute, governmental entities cannot further delegate any discretionary powers. 2 Am.Jur.2d Administrative Law § 222 and 56 Am.Jur.2d Municipal Corporations, etc. § 196.

If the Commission were to promise to apply the county's personnel rules, it would be impairing its ability to exercise its judgment and discretion in fulfilling its statutory duties. It is the opinion of this Office that the Walterboro-Colleton County Recreation Commission cannot enter into such an agreement with the County.

Sincerely,

Barbara J. Hamilton
State Attorney

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