

1977 WL 37008 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 24, 1977

\*1 Senator John H. Waller, Jr.  
P. O. Box 687  
Mullins, South Carolina 29574

Dear Senator Waller:

You have requested an opinion from this Office as to whether or not the Marion County Legislative Delegation (Delegation) or the Marion County Council (Council) has the authority to recommend the appointment of the members of the Marion County Hospital commission (Commission). In my opinion, the Delegation is so authorized as hereinbelow discussed.

As I understand it, the Commission is the successor to the Marion County Memorial Hospital Commission and the Mullins Hospital Commission and was created pursuant to the provisions of Act No. 926 of 1974. 58 STAT. 2018 (1974). Section 22 of that Act authorizes a county governing body, as an incident to the enlargement, diminution or consolidation of an existing special purpose district located within that county, to recommend to the Governor that the commission of such an altered special purpose district be changed or replaced. Accordingly, the Marion County Board of County Commissioners authorized the consolidation of the two districts governed by the Marion County Memorial Hospital Commission and the Mullins Hospital Commission, respectively, and recommended the creation of a new governing body, the Commission, to direct the consolidated district. Section 22 of Act No. 926 further provides that:

. . . [a]ll new members to any commission shall be appointed by the Governor upon recommendation of a majority of the legislative delegation of the county, including the resident Senator or Senators, if any. . . .

Thus, the members of the new Commission are to be recommended for appointment as hereinabove prescribed. Act No. 734 of 1976 [59 STAT. 2187 (1976)] has not effected a devolution of that power upon the Council for the reason that the Commission is not a 'county' commission includable within the scope of that Act but is, instead, a special purpose district commission. Cf., § 14-3714, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). Moreover, the power to recommend for appointment the members of an altered special purpose district commission is provided for by general law (Act No. 926 of 1974), a fact which places the Commission beyond the scope of Act No. 734.

You have also inquired about the Director of the Marion County Disaster Preparedness Agency (Agency). Pursuant to Section 44-317, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.), Marion County created the Agency by ordinance and also provided for a director or coordinator thereof. My understanding is that the ordinance provides that the Director is to be selected by the county governing board; therefore, the Council is the body authorized to appoint the Agency Director.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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