

1976 WL 30598 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 12, 1976

\*1 W. G. Lynn, Jr., Esquire  
County Attorney  
P. O. Box 517  
Aiken, South Carolina 29801

Dear Mr. Lynn:

You have requested an opinion from this office as to whether or not the Aiken County Board of Commissioners can raise or otherwise alter the present fee schedule being used by the Aiken County Clerk of Court. The statutory authority for the fee schedule presently being used by the Aiken County Clerk of Court is found in Section 27-69.1, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended.

As you know, the Board of Commissioners is the governing body of a political subdivision of this State and, as such, possesses only those powers which are either expressly granted or necessarily implied. See, 81 C.J.S. States § 58 at 977-8, 1967 OPS.ATTY.GEN. No. 2213 at 7. Act No. 1078 of 1972 established the Aiken County Board of Commissioners; nowhere in that legislation nor in the amendments thereto, is there any language either expressly or impliedly granting to the Board of Commissioners the authority to alter the fee schedule used by the Clerk of Court. In fact, Section 9, subdivision 13 of that Act provides in part that:

. . . the duties and functions now provided by law for all of the elected offices of the county, . . . including the . . . , Clerk of Court, . . . shall not be altered.

See, 57 STAT. Act No. 1078 at 2249 (1972), as amended.

The opinion of this office is, therefore, that the Aiken County Board of Commissioners cannot raise or otherwise alter the present fee schedule being used by the Aiken County Clerk of Court.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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