



ALAN WILSON
ATTORNEY GENERAL

October 25, 2016

The Honorable Stephen L. Goldfinch, Member
South Carolina House of Representatives
306-A Blatt Building
Columbia, SC 29201

Dear Representative Goldfinch:

Attorney General Alan Wilson has referred your letter dated July 6, 2016 to the Opinions section for a response. The following is this Office's understanding of your question and our opinion based on that understanding.

Issues (as quoted from your letter):

1. *Being that [S.C. Code] Sections 21-1639 through 21-1641 of the 1962 Code of Laws were not specifically repealed by South Carolina Act 340 of 1967, are the sections still applicable laws of the State of South Carolina?*
2. *Are Constituent School District Trustees appointed to fill a vacancy by the Charleston County School District Board of Trustees, however caused, to serve the remainder of the term or until the next ensuing General Election in which the remainder of unexpired term would be on the ballot?*

Law/Analysis:

1. *Being that [S.C. Code] Sections 21-1639 through 21-1641 of the 1962 Code of Laws were not specifically repealed by South Carolina Act 340 of 1967, are the sections still applicable laws of the State of South Carolina?*

By way of background, South Carolina 1962 Code Sections 21-1639 through 21-1641 state regarding Charleston County school trustees that:

§ 21-1639. Purchase of supplies.—The board of trustees of each respective district shall purchase school supplies from the purchasing agency of the county board, if such agency exists and articles required are on sale by such agency. (1952 Code § 21-1639; 1942 Code § 5544-7; 1939 (41) 18.)

§ 21-1640. Budgets.—Each district board of trustees shall, on or before the thirtieth day of May in each year, submit to the county board of education a fair itemized estimate of the amount necessary to provide a school term fulfilling the requirement so of the State Board of Education and the county board. Such budget shall be made in triplicate on blanks supplied by the county board. One copy of such budget, when and as approved by the county board, shall be filed in the office of the county superintendent of education, one copy in the office of the county treasurer and one copy with the board of trustees of the district. (1952 Code § 21-1640; 1942 Code § 5544-7; 1939 (41) 18.)

§ 21-1641. Claims in excess of budget; transfer of items; increase of budget.— The county superintendent of education shall not approve any school claim drawn by the district board in excess of the amount contained in the approved budget of such district. Upon written notice being given to the county superintendent of education, any district board of trustees may transfer amounts from one item to another in the budget of such district, provided the total of the budget be not increased. The county board of education at any time upon due application by any district board of trustees and for good cause shown may in its discretion permit and approve an increase in the budget of such district. (1985 Code § 21-1641; 1942 Code § 5544-7; 1939 (41) 18.)

S.C. Code §§ 21-1639, 21-1640, 21-1641 (1962 Code). Sections 21-1639, 21-1640, and 21-1641 were a part of Chapter 27, Article 4 of the 1962 Code of Laws. Chapter 27 is titled “Charleston County,” and is in the Education Section of 1962 Code of Laws. Article 4 of Chapter 27 is titled “School Trustees.” Id. Article 2 of Chapter 27 of the 1962 Code of Laws is labeled “County Board of Education.” Act No. 340 of 1967 is titled “An Act To Create The School District of Charleston County And To Abolish The County Board Of Education Of Charleston County.” Act No. 340, 1967 S.C. Acts 470.

In order to attempt to understand the General Assembly’s intent regarding the continued application of the statutes, we must examine the statutory history and interpretation. As a background in statutory interpretation, the cardinal rule of statutory construction is to ascertain the intent of the General Assembly and to accomplish that intent. Hawkins v. Bruno Yacht Sales, Inc., 353 S.C. 31, 39, 577 S.E.2d 202, 207 (2003). The true aim and intention of the General Assembly controls the literal meaning of a statute. Greenville Baseball v. Bearden, 200 S.C. 363, 20 S.E.2d 813 (1942). The historical background and circumstances at the time a statute was passed can be used to assist in interpreting a statute. Id. An entire statute’s interpretation must be “practical, reasonable, and fair” and consistent with the purpose, plan and reasoning behind its making. Id. at 816. Statutes are to be interpreted with a “sensible construction,” and a “literal application of language which leads to absurd consequences should be avoided whenever a reasonable application can be given consistent with the legislative purpose.” U.S. v. Rippetoe, 178 F.2d 735, 737 (4th Cir. 1950). The dominant factor concerning statutory construction is the intent of the General Assembly, not the language used. Spartanburg Sanitary Sewer Dist. v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984) (citing Abell v. Bell, 229 S.C. 1, 91 S.E.2d 548 (1956)). Moreover, as this Office has stated in prior opinions, “the title or caption of an act may be properly considered to aid in the construction of a statute and to show the intent of the Legislature.” Ops. S.C. Att’y Gen., 2016 WL 2607252 (S.C.A.G. April 25, 2016); 2015 WL 8773706 (S.C.A.G. Nov. 24, 2015); 2015 WL 8772705 (S.C.A.G. Nov. 24, 2015); 2015 WL 5462169 (S.C.A.G. Sept. 3, 2015); 2015 WL 4497736 (S.C.A.G. July 9, 2015); 2008 WL 903971 (S.C.A.G. March 7, 2008); 2006 WL 3199990 (S.C.A.G. Oct. 19, 2006); 2005 WL 1609293 (June 10, 2005); 2004 WL 2451474 (S.C.A.G. Oct. 15, 2004); 2000 WL 1205931 (S.C.A.G. May 30, 2000); 1996 WL 549534 (S.C.A.G. Aug. 9, 1996); 1985 WL 166057 (S.C.A.G. Aug. 16, 1985) (citing Lindsay v. Southern Farm Bureau Cas. Ins. Co., 258 S.C. 272, 188 S.E.2d 374 (1972)). Furthermore, regarding statutory interpretation, this Office has previously stated:

The language of a statute must be read in a sense which harmonizes with its subject matter and accords with its general purpose. Multi-Cinema, Ltd. v. S.C. Tax Commission, 292 S.C. 411, 357 S.E.2d 6 (1987). And where two statutes are in apparent conflict, they should be construed, if reasonably possible, to give force and effect to each. Stone & Clamp, General Contractors v. Holmes, 217 S.C. 203,

60 S.E.2d 231 (1950). This rule applies with peculiar force to statutes passed during the same legislative session, and as to such statutes, they must not be construed as inconsistent if they can reasonably be construed otherwise. State ex rel. S.C. Tax Commission v. Brown, 154 S.C. 55, 151 S.E. 218 (1930).

Op. S.C. Att’y Gen., 2013 WL 54964614 (S.C.A.G. September 23, 2013) (quoting Op. S.C. Att’y Gen., 1988 WL 485345 (S.C.A.G. December 1, 1988)). Moreover, this Office has previously stated regarding conflicting statutes that “a court will apply the principle that where there are conflicting statutes, the later in time trumps.” Op. S.C. Att’y Gen., 2015 WL 992701, (S.C.A.G. Feb. 12, 2015) (citing Feldman v. S.C. Tax Commission, 203 S.C. 49, 26 S.E.2d 22 (1943)). Additionally, this Office has also previously opined regarding statutory interpretation that:

First, the failure to include the 1945 Act in the 1952 Code of Laws had the effect of repealing the 1945 Act. It is well settled by our decisions that the Code as adopted is the general law and the omissions are lost. Independence Insurance Company v. Independent Insurance Company, 218 S.C. 22, 61 S.E.2d 399. ...

“Where the later of two acts covers the whole subject matter of the earlier one, not purporting to amend it, and plainly shows that it was intended to be a substitute for the earlier act, such later act will operate as a repeal of the earlier one, though the two are not repugnant.” Independence Insurance Company v. Independent Insurance Company, *supra*.

The failure to set out former statutory provisions in a later comprehensive enactment will operate to repeal the omitted provisions which are inconsistent, and former provisions which are not repugnant to the later legislation as well. Sutherland Statutory Construction, paragraph 2018, page 477.

Op. S.C. Att’y Gen., 1961 WL 9121 (S.C.A.G. May 19, 1961). Quoting from the Independence Insurance Company case, our State Supreme Court stated that:

The problem is similar (and similarly solved by the authorities) to that which arises upon the adoption of a new general code and intervening statutes are omitted. It is well settled by our decisions that the code as adopted is the general law and the omissions are lost. State v. Meares, 148 S.C. 118, 145 S.E. 695. Rutledge v. City of Greenville, 155 S.C. 520, 152 S.E. 700. City of Greenville v. Pridmore, 162 S.C. 52, 160 S.E. 144. This accords with the practically uniform rule in other jurisdictions, both with respect to general codes and general revisions upon any one subject, such as here—insurance. 5 Ann.Cas. 202, annotation. 50 Am.Jur., 559, 560, Statutes, sec. 556, succinctly states the law, as follows: ‘As a general rule, the enactment of revisions and codes manifestly designed to embrace an entire subject of legislation, operates to repeal former acts dealing with the same subject, although there is no repealing clause to that effect. under this rule, all parts and provisions of the former act or acts, that are omitted from the revised act, are repealed, even though the omission may have been the result of inadvertence. The application of the rule is not dependent on the inconsistency or repugnancy of the new legislation and the old; for the old legislation will be impliedly repealed by the new even though there is no repugnancy between them.’

The rule that statutes relating to the same subject are to be construed together and harmonized, if possible, has no application in construing an act intended to be complete in itself. Lewis' *Suth. Stat. Con.*, Sec. 447. Hamilton v. Rathbone, 175 U.S. 414, 20 S.Ct. 155, 158, 44 L.Ed. 219, in which Justice Brown said: 'where the meaning of the Revised Statutes is plain, it (the court) cannot recur to the original statutes to see if errors were committed in revising them.' And, again: 'The whole doctrine applicable to the subject may be summed up in the single observation that prior acts may be resorted to, to solve, but not to create, an ambiguity.' *Am. & Eng. Ency. Law*, Vol. 26, p. 731, says: 'Where the later of two acts covers the whole subject-matter of the earlier one, not purporting to amend it, and plainly shows that it was intended to be a substitute for the earlier act, such later act will operate as a repeal of the earlier one, though the two are not repugnant.' For this, numerous cases are cited, among which is Dist. of Columbia v. Hutton, 143 U.S. 18, 12 S.Ct. 369, 36 L.Ed. 60, fully sustaining the text, as well as the proposition that the old and new statutes are not regarded as laws in *pari materia*. Additional authorities to the point are collected in the exhaustive opinion in *State v. Harden*, 62 W.Va. 313, 58 S.E. 715, 60 S.E. 394, from which the foregoing is drawn, which clearly demonstrate that the rule is equally applicable in the cases of civil statutes and criminal statutes. Additional authorities from other jurisdictions, State and Federal, will be found cited in Fry v. Equitable Trust Co., 264 Mich. 165, 249 N.W. 619, 90 A.L.R. 175, and La Fontaine v. Wilson, 185 A. 673, 45 A.2d 729, 162 A.L.R. 1218, in which the rule was recognized and enforced as an exception to the rule which frowns upon repeal by implication. Many earlier decisions are collected in the annotation in 5 *Ann.Cas.* 202.

This distinction between an act amendatory of, or cumulative to, existing law and one undertaking to exhaust the field of the subject was recently pointed out by this court in McCollum v. Snipes, 213 S.C. 254, 49 S.E.2d 12, where it was applicable conversely to this case.

Indep. Ins. Co. v. Indep. Life & Acc. Ins. Co., 218 S.C. 22, 31–33, 61 S.E.2d 399, 403–04 (1950).

Keeping all of those principles of statutory interpretation in mind, let us examine the sections of the 1962 Code of Laws you reference in your first question. § 21-1639 of the 1962 Code of Laws states that “[t]he board of trustees of each respective district shall purchase school supplies from the purchasing agency of the county board, if such agency exists...” S.C. Code § 21-1639 (1962 Code) (emphasis added). Since Act 340 of 1967’s intent was, as expressed by its title, to abolish the county board of education of Charleston County, then there would be no county board and no purchasing agency thereof. Act No. 340, 1967 S.C. Acts 470. Moreover, § 5(13) of Act 340 grants the Board of Trustees of the Charleston County School District the authority to “[e]stablish and maintain a central purchasing system for the purchase of all contractual services, equipment, and supplies and purchase all equipment and supplies pursuant to rules promulgated by the Board of Trustees of the Charleston County School District.” Thus, the Charleston County School District holds the purchasing authority for the County school pursuant to Act 340 of 1967.¹

¹ Please note we are answering your question as stated, only comparing Act 340 of 1967 with § 21-1639, § 21-1640, and § 21-1641 of the 1962 Code of Laws. For purposes of this opinion, we have not reviewed other laws outside of your question, though we are glad to in a follow-up opinion.

Regarding school budgets, § 21-1640 of 1962 Code of Laws states that “[e]ach district board of trustees shall ... submit to the county board of education a fair itemized estimate of the amount necessary to provide a school....” S.C. Code § 21-1640 (1962 Code). As stated above, since Act 340 of 1967’s intent was, as expressed by its title, to abolish the county board of education of Charleston County, then there would be no county board to submit a budget to. Act No. 340, 1967 S.C. Acts 470. Moreover, § 5(11) of Act 340 grants the Board of Trustees of the Charleston County School District authority to “[a]dopt a system of budgetary controls and annually adopt a budget, with power to revise when necessary, sufficient to meet the educational needs of the district.” Furthermore, Section 5 of Act No. 340 of 1967 states that “[i]n addition to the duties, powers, and responsibilities now provided by law for county boards of education, and for school district trustees other than those devolved upon the constituent trustees in Sections 6 and 7 of this act, the Board of Trustees of the Charleston County School District shall....” Act No. 340 §5, 1967 S.C. Acts 470. By stating this, the General Assembly expressed the intent that Act 340 grants to the Board of Trustees of the Charleston County School District all “duties, powers, and responsibilities now provided by law for county boards of education, and for school district trustees....” Id. Thus, any power over the budget the county board of education had transferred to the Board of Trustees of the Charleston County School District. Id.

§ 21-1641 of the 1962 Code of Laws concerns budget changes and increases. S.C. Code § 21-1641 (1962 Code). It states, among other things, regarding claims in excess of the budget that: “[t]he county superintendent of education shall not approve any school claim drawn by the district board in excess of the amount contained in the approved budget of such district.” S.C. Code § 21-1641 (1962 Code). As we stated above, Section 5 of Act No. 340 of 1967 states that “[i]n addition to the duties, powers, and responsibilities now provided by law for county boards of education, and for school district trustees other than those devolved upon the constituent trustees in Sections 6 and 7 of this act, the Board of Trustees of the Charleston County School District shall....” Act No. 340 §5, 1967 S.C. Acts 470. By stating this, the General Assembly expressed the intent that Act 340 grants to the Board of Trustees of the Charleston County School District all “duties, powers, and responsibilities now provided by law for county boards of education, and for school district trustees....” Id. Thus, any power the county board of trustees had to approve an increase in a district’s budget would have been transferred to the Board of Trustees of the Charleston County School District. The same holds true for any other powers granted in § 21-1641 of the 1962 Code of Laws.

2. Are Constituent School District Trustees appointed to fill a vacancy by the Charleston County School District Board of Trustees, however caused, to serve the remainder of the term or until the next ensuing General Election in which the remainder of unexpired term would be on the ballot?

It is this Office’s understanding that your second question relates to whether Act No. 12 § 11 of 1939 is still in force specifically after Act No. 340 of 1967 passed. Act No. 12 of 1939 is titled “An ACT to Create the County Board of Education for Charleston County; to Prescribe its Duties and Powers; and to Repeal Section 5413, Code of Laws of South Carolina, 1932, and all Acts Amendatory Thereof.” Act No. 12, 1939 S.C. Acts 18. § 11 of Act No. 12 of 1939 states that:

School trustees—vacancies.—Vacancies in the office of school trustees, however caused, shall be filled by the County Board of Education for the period ending December 31st of the even numbered year next ensuing after the occurrence of such vacancy; *Provided*, that in the general election held in such even-numbered year a trustee shall be elected to serve for the remainder of the unexpired term.

Act No. 12 § 11, 1939 S.C. Acts 18; 1939 (41) 18. The simple answer to this question is as long as section 11 was not repealed or overruled by a later act or ruling, it is still valid. In answering your first question, we know that since the County Board of Education was dissolved by Act 340 of 1967, its powers were transferred² to the Board of Trustees of the Charleston County School District, except for the constituent³ districts. Act No. 340, 1967 S.C. Acts 470. As you mentioned the Charleston County School District Board of Trustees in your question, we presume you already considered this. Thus, let us review the Acts that follow Act No. 12 of 1939.

1942 Code of Laws § 5544-5 authorized the election and appointment of school trustees in Charleston County. It provided trustees in Charleston County to be elected in the general election every six years unless the voters elect for the county board of education to appoint them.⁴ S.C. Code § 5544-5(1) (1942 Code). Later came South Carolina Code § 21-1636 of 1952 Code of Laws and § 21-1636 of the 1962 Code of Laws which are nearly identical. Regarding vacancies for School Trustees, they both state:

§ 21-1636. Vacancies.—Vacancies in the office of school trustees, however caused, shall be filled by the county board of education for the period ending December thirty-first of the even-numbered year next ensuing after the occurrence of such vacancy. In the general election held in such even-numbered year a trustee shall be elected to serve for the remainder of the unexpired term.

S.C. Code § 21-1636 (1962 Code) (emphasis added).⁵ § 2 of Act No. 340 of 1967 states concerning the board of trustees of the Charleston County School District that:

[i]n the event of a vacancy on the board, due to cause other than expiration of term, the vacancy shall be filled for the remainder of the unexpired term by appointment by the Governor upon the recommendation of a majority of the Charleston County Legislative Delegation.

Act No. 340, § 2, 1967 S.C. Acts 471. However, this section relates to the Charleston County School District, not the constituent school districts, which were the former school districts. We must again return to the title and purpose of Act 340 of 1967. The Act's intent was, as expressed by its title, to abolish the county board of education of Charleston County. Act No. 340, 1967 S.C. Acts 470. Section 5 of Act No. 340 of 1967 states that “[i]n addition to the duties, powers, and responsibilities now provided by law for county boards of education, and for school district trustees other than those devolved upon the constituent trustees in Sections 6 and 7 of this act, the Board of Trustees of the Charleston County School District shall....” Act No. 340 § 5, 1967 S.C. Acts 470. By stating this, the General Assembly expressed the intent that Act 340 grants to the Board of Trustees of the Charleston County School District all “duties, powers, and responsibilities now provided by law for county boards of education, and for school district trustees....” Id. Thus, any power regarding vacancies the county board of education had transferred to the Board of Trustees of the Charleston County School District at the effective date of Act 340.

² Unless transferred or removed otherwise explicitly.

³ The constituent school districts are composed of the areas of the eight former school districts pursuant to § 1 of Act No. 340 of 1967. Moreover, the boards of trustees of the former school districts became the trustees of the constituent districts and were required to perform the functions for such constituent districts as listed in Act No. 340 of 1967. Act No. 340 § 1, 1967 S.C. Acts 470.

⁴ This is an overview. Please read 1942 Code of Laws § 5544-5 for the full version.

⁵ The 1952 Code reads “December 31st” while the 1962 code reads “December thirty-first.”

After Act No. 340, this Office has issued an opinion to a Charleston County District #20 Trustee in 1974. See Op. S.C. Att’y Gen., 1974 WL 27776 (1974). In that opinion we stated that:

Thank you for your letter of May 16, 1974, in which you inquired if your appointive term to the Board of Trustees for School District #20 would be altered by recent legislative enactments which have changed this position to an elective one.

I understand from your letter that you were appointed just prior to the change and that your term will expire on December 31, 1977. Act 397 of 1973 [1973 (58) 692] at Section 2 states in part:

Those members of boards of trustees of constituent school districts in Charleston County who were appointed for terms to expire subsequent to 1974 shall serve terms for which they were appointed and their successors shall be nominated and elected as provided in Section 1A of Act 340 of 1967.

Therefore, the recently enacted legislation changes would not affect your term as trustee.

Op. S.C. Att’y Gen., 1974 WL 27776 (S.C.A.G. May 21, 1974).⁶ Act 397 of 1973, beginning with its title, states that:

An Act to Amend Section 21-1631, Code of Laws Of South Carolina, 1962, As Amended Relating to Trustees Of School Districts In Charleston County, So As To Provide That All Trustees Shall Be Elected.

Be it enacted by the General Assembly of the State of South Carolina:

Section 1. Election of trustees.—Section 21-1631 of the 1962 Code, as amended, is further amended by striking it out and inserting:

“Section 21-1631. The trustees of the several school districts in Charleston County shall be elected for terms of four years and until their successors are elected and qualify in the general elections.”

Section 2. Further.—The elected members Vacancies on boards of trustees of constituent school districts in Charleston County shall be filled by appointment by the boards of trustees of the Charleston County school district for the unexpired portion of the term only. ...

Act No. 397, 1973 S.C. Acts 692. Act No. 914 of 1978 deleted Section 21-1631. Act No. 914, 1978 S.C. Acts 1978. However, it appears the General Assembly left the language “for the unexpired portion of the term only” in Section 2 of Act No. 397 of 1973 when it passed Act No. 914 of 1978. Id.⁷

⁶ See also Op. S.C. Att’y Gen., 1984 WL 249955 (S.C.A.G. August 8, 1984) (advising the Charleston County Board of Education).

⁷ Please note South Carolina Code § 7-13-190 authorizes vacancies in office to be filled by a special election due to death, resignation or removal. S.C. Code § 7-13-190.

Moreover, this Office addressed some of the history regarding Charleston County School District in a 2016 opinion where we stated:

By Act No. 340 of 1967 the legislature consolidated the eight school districts of Charleston County into the Charleston County School District (hereinafter the “CCSD”) and abolished the County Board of Education. Act No. 340 § 1, 1967 S.C. Acts 470 (hereinafter “the Act” or “Act 340”). The eight school districts were kept as “special districts” called “constituent districts.” Id. The Act specified that the CCSD was to be governed by a board of trustees; in addition, each of the eight constituent districts was authorized to have a board of trustees to “perform the functions delegated to and devolved upon trustees in the constituent districts in [Act 340].” Id.

In a recent opinion issued by this Office, we addressed the divide in powers between the board of trustees of the CCSD and the boards of trustees for each of Charleston County's eight constituent districts. See OP. S.C. Att’y Gen., 2015 WL 1266150 (March 6, 2015). We summarized as follows:

Act 340 abolished the County Board of Education of Charleston County and established the CCSD which is governed by a county-wide board of trustees. Act No. 340 § 1, 1967 S.C. Acts 470. The powers given to the CCSD include those given to the county boards of education by law and to school trustees not otherwise given to constituent trustees of the eight constituent districts. Id. at § 5, 472, as amended. Separate from the powers given to the CCSD Board of Trustees, Act 340 provides the constituent district trustees with powers specifically enumerated in the Act, subject to appeal of the Board of Trustees of the Charleston County School District. See id. at § 1, 470; § 6-7, 474. As it has been summarized, “[t]he CCSD Board of Trustees was given sole power to adopt budgets, raise taxes, and disburse funds; to purchase and sell land; to build, maintain, and demolish schools; and to purchase services, equipment, and supplies. It was given the authority to determine curricula and set county-wide policy for the instructional program.” U.S. v. Charleston County Sch. Dist., 960 F.2d 1127, 1241 (D.S.C. 1992) (J. Sprouse dissent); see Act No. 340 § 5, 1967 S.C. Acts 472. Separate from the CCSD trustees, the constituent district trustees were given administrative duties of employing teachers as well as assigning, transferring, and disciplining students. Id.; see Act No. 340 § 6-7, 1967 S.C. Acts 474. Since Act 340's enactment, the powers of the constituent districts have been reduced; ultimately, in 2007 Sections 6 and 8 of the Act were deleted, and the CCSD Board was vested with complete power to employ and assign teachers and personnel for the efficient operation of schools as well as the complete control over the appointment of principals. Act No. 131, 2007 S.C. Acts 1390-91.

Id. at *3.

The March 6, 2015 opinion also emphasized that the powers of the trustees of the constituent districts of Charleston County are limited to those specifically enumerated in Act 340. Id. (noting also Stewart v. Charleston County Sch. Dist., 386 S.C. 373, 379-80, 688 S.E.2d 579, 582 (Ct. App. 2009) where our Court of Appeals expressly recognized that “the constituent districts only have the powers bestowed upon them by the Act in Sections 6 and 7”). On the other hand, we distinguished that the trustees of the CCSD are afforded the powers not specifically vested to the constituent district trustees that are otherwise provided for school district trustees, powers provided for county boards of education, as well as powers specifically enumerated in the Act. Id. at * 3; see Act No. 340 § 5, 1967 S.C. Acts 472.

...

Our opinion therefore concluded that while each of the eight constituent districts have certain powers unique to school districts - notably local powers related to student assignment and discipline - and were treated as individual school districts in United States v. Charleston County Sch. Dist., they lack the complete makeup of an autonomous school district. Op. S.C. Att’y Gen., 2015 WL 1266150 (March 6, 2015). Thus, we provided our opinion that the constituent districts and their trustees should be treated as school districts and school district trustees, as defined by statute, in so far as their powers afford. Id. at *7, 10. However, we also cautioned that

[w]hat is paramount to the conclusions reached in this opinion is that the constituent districts and their trustees are limited to the statutory powers provided to them by Act 340 of 1967, as amended. Thus, it is our belief that the powers, duties, and entitlements of the constituent districts of Charleston County should be construed in line with the powers they have been afforded.

Id. at* 10.

Op. S.C. Att’y Gen., 2016 WL 1711847 (S.C.A.G. April 12, 2016); see also Op. S.C. Att’y Gen., 2004 WL 439323 (S.C.A.G. February 20, 2004). Please read the April 12, 2016 and February 20, 2004 opinions for further explanations on the Charleston County School District.

Conclusion:

It is for all of the above reasons we believe a court will likely find that Act 340 of 1967 implicitly repealed South Carolina Code §§ 21-1639, 21-1640, 21-1641 of the 1962 Code of Laws. Moreover, it appears the General Assembly intended the vacancy of a constituent district trustee to be filled “for the unexpired portion of the term only” pursuant to Section 2 of Act No. 397 of 1973. The General Assembly has passed numerous specific and general laws affecting the Charleston County School District and election of trustees for its constituent districts. Thus, if there are other relevant statutes or cases we have not herein addressed, please notify us in a follow-up request that we may address those. Moreover, as the April 12, 2016 opinion illustrates, each question regarding the District must be addressed on a case-by-case basis. Furthermore, this Office is only issuing a legal opinion based on the current law at this time and the information as provided to us. As mentioned above, if there are other relevant statutes or cases we have not herein addressed, please notify us in a follow-up request that we may address those. Until a

The Honorable Stephen L. Goldfinch
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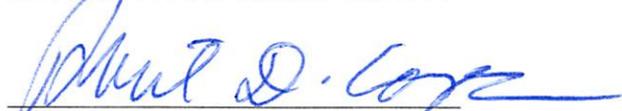
court or the General Assembly specifically addresses the issues presented in your letter, this is only an opinion on how this Office believes a court would interpret the law in the matter. Additionally, you may also petition the court for a declaratory judgment, as only a court of law can interpret statutes and make such determinations. See S.C. Code § 15-53-20. If it is later determined otherwise, or if you have any additional questions or issues, please let us know.

Sincerely,



Anita S. Fair
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General