

1976 S.C. Op. Atty. Gen. 235 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4396, 1976 WL 23014

Office of the Attorney General

State of South Carolina

Opinion No. 4396

July 15, 1976

*1 Mr. Edwin P. Rogers, Sr.

Executive Director

Pee Dee Regional Planning and Development Council

Post Office Box 5719

Florence, South Carolina 29501

Dear Mr. Rogers:

You have requested an opinion from this Office as to the newly-created Marion County Hospital Commission and its legal responsibility to carry out the intent of the two recently-abolished predecessor hospital commissions, *i.e.*, the Mullins Hospital Commission created pursuant to Act No. 436 of 1923 [33 STAT. 758 (1923)] and the Marion County Memorial Hospital Commission created pursuant to Act No. 1073 of 1948 [45 STAT. 2871 (1948)]. In my opinion, the new Commission is not required to carry out the intent of the two former commissions to build a 'single, large modern hospital, to be constructed approximately equidistance between the City of Mullins and the City of Marion' as expressed in their petition to the Board of County Commissioners of Marion County dated March 18, 1975.

By Act No. 926 of 1974 [58 STAT. 2018 (1974)], the governing body of any South Carolina county is authorized to enlarge, diminish or consolidate any existing special purpose districts located within that county either upon its own motion or upon the petition of the commissions of the affected districts. Section 22 of that Act authorizes the county governing body to recommend to the Governor that the commission of such an altered special purpose district be changed or replaced. Pursuant to the Act, the Marion County Board of County Commissioners, acting upon the petition of the Mullins Hospital Commission and the Marion County Memorial Hospital Commission, authorized the consolidation of the two districts governed by those commissions and recommended the creation of a new governing body, the Marion County Hospital Commission, to direct the consolidated district.

Section 23 of Act No. 926 provides in part that:

. . . in the case of any consolidation, the new commission shall succeed to any and all powers enjoyed by any of the preexisting districts so consolidated.

Since the two former commissions had the power to purchase a site, erect and equip a hospital thereon and control and manage all affairs thereof [*see*, §§ 3 and 4 of Act No. 436 of 1923; § 3 of Act No. 1073 of 1948], the new commission is likewise so empowered, notwithstanding any previous actions of the two antecedent commissions to the contrary.

It is generally held that a mere change in office does not terminate a power of reconsideration or modification which existed before the change, and a successor in office may do the act which his predecessor could have done. Thus, a successor may review or reverse determinations of his predecessor which are interlocutory and not final, or as to which a continuing jurisdiction exists in the agency. 2 AM.JUR.2d Administrative Law § 532. [Emphasis added.]

Inasmuch as there is no provision in Act No. 926 that I can find that would alter this general statement of the law, my opinion is that the Marion County Hospital Commission is not bound to carry out the intent of the two former commissions as hereinabove set forth.

*2 As a final comment, since the county governing body's power to alter the areas of special purpose districts situated therein is a continuing one, it is possible that the area of the Marion County Hospital District could be diminished to the extent necessary to ensure that the hospital is built between the cities of Marion and Mullins.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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