



ALAN WILSON
ATTORNEY GENERAL

May 9, 2022

The Honorable Shedron D. Williams
432-D Blatt Building
Columbia, SC 29201

Dear Representative Williams:

You have requested an opinion from this Office regarding whether you, as the House of Representatives Delegation Member for Hampton County, have the authority pursuant to section 55-1-80 of the South Carolina Code of Laws to appoint an additional member to the Hampton County Airport Commission.

LAW/ANALYSIS

We will begin with a discussion of a county council's authority. Our Office previously stated that "it is settled law that counties and municipal corporations have only such powers as are granted to them by legislative enactment." Op. S.C. Atty. Gen., 1988 WL 383501 (Feb. 25, 1988). The Legislature granted county councils certain powers, subject to the State Constitution and general laws, including the right to:

establish such agencies, departments, boards, commissions and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions and positions, except as otherwise provided for in this title . . .

S.C. Code Ann. § 4-9-30 (1976 Code, as amended). Additionally, county councils "shall provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by the general law or the Constitution . . ." S.C. Code Ann. § 4-9-170 (1976 Code, as amended) (emphasis added).

Counties are specifically authorized to establish and operate airports:

The division and the municipalities, counties, airport commissions, special purpose districts, and other political subdivisions of this State may, separately or jointly, acquire, establish, construct,

expand, own, lease, control, equip, improve, maintain, operate, regulate and police airports for the use of aircraft, either within or without the geographical limits of such municipalities, counties and other political subdivisions and may use for such purpose or purposes any available property owned or controlled by the division or such municipalities, counties or other political subdivisions; but no county shall exercise the authority hereby conferred outside of its geographical limits except in an adjoining county and this only jointly with such adjoining county.

S.C. Code Ann. § 55-9-30 (1976 Code, as amended).

Counties are also allowed to vest authority for the airports in county boards or bodies:

The division, counties, municipalities, and other political subdivisions of this State which have established airports which acquire, lease or set apart real property for these purposes may:

- (1) construct, equip, improve, maintain and operate airports or vest authority for the construction, equipment, improvement, maintenance and operation of it in an officer, board or body of the political subdivision, the expense of the construction, equipment, improvement, maintenance and operation to be a responsibility of such political subdivision;

S.C. Code Ann. § 55-9-190 (1976 Code, as amended).

Section 55-1-80 provides for the appointment of additional members to county aviation commissions:

(A) Any county aviation commission or like authority may be increased by two members, one of whom must be appointed by the House of Representatives' delegation of the county and one of whom must be appointed by the Senatorial delegation of the county. The additional members shall serve terms of the same length as other members of the commission or like authority.

(B) Any county governing body who has the authority to appoint members to the aviation commission or like authority may add two members for terms as provided in this section.

(C) In counties that have two municipalities with a population in excess of fifty thousand persons according to the latest official United States Census, and the county has an aviation commission or like authority, then the mayors of such municipalities having a population in excess of the fifty thousand persons shall serve, ex officio, as members of the commission or authority.

(D) The provisions of this section do not apply in the case of any multicounty aviation commission or authority.

S.C. Code Ann. § 55-1-80 (1976 Code, as amended).

We must rely on the rules of statutory construction to construe section 55-1-80. The most important rule is to determine legislative intent:

The cardinal rule of statutory construction is to ascertain and effectuate the intent of the legislature. Charleston County Sch. Dist. v. State Budget and Control Bd., 313 S.C. 1, 437 S.E.2d 6 (1993). Under the plain meaning rule, it is not the court's place to change the meaning of a clear and unambiguous statute. In re Vincent J., 333 S.C. 233, 509 S.E.2d 261 (1998) (citations omitted). Where the statute's language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning. Id. at 233, 509 S.E.2d at 262 (citing Paschal v. State Election Comm'n., 317 S.C. 434, 454 S.E.2d 890 (1995)). “What a legislature says in the text of a statute is considered the best evidence of the legislative intent or will. Therefore, the courts are bound to give effect to the expressed intent of the legislature.” Norman J. Singer, Sutherland Statutory Construction § 46.03 at 94 (5th ed. 1992).

Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000).

Another principle of statutory construction is that all sections of a statute must be read together:

‘[s]ections which are part of the same statutory law of the State must be construed together. In construing statutory language, the statute must be read as a whole and sections which are part of the same general statutory law must be construed together and each one given effect, if it can be done by any reasonable construction .

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Op. S.C. Atty. Gen., 2015 WL 1382879 (March 9, 2015).

Punctuation can also contribute to the construction of a statute:

While punctuation in a statute is not controlling, it cannot be ignored where there is no patent ambiguity, and where the punctuation gives meaning and effect to the language used. Especially is this true where a disregard of the punctuation as found in the statute will have a material effect upon the construction thereof. Caston v. Brock, 14 S.C. 104.

Jackson v. S.C. Tax Comm'n, 192 S.C. 350, 6 S.E.2d 745, 746 (1940).

A review of section 55-1-80 shows that subsections (A) and (B) are pertinent to your question. Section 55-1-80(A) plainly provides that any county aviation authority may be increased by two members, one to be appointed by the county House of Representatives delegation and the other to be appointed by the county Senate delegation. Section 55-1-80(B) unambiguously provides that any county governing body with the authority to appoint members to the aviation commission may add two members.

Additionally, none of the subsections in section 55-1-80 are connected by the words “and” or “or.” Instead, each subsection ends with a period. This suggests that each subsection works independently of the others. Giving effect to both subsections (A) and (B), it is our opinion that a county legislative delegation can increase a county aviation commission by two members (one member appointed by the county House of Representatives delegation and one member appointed by the county Senate delegation). At the same time, we believe that a county council can add two members to a county aviation commission.

We understand that Hampton County is concerned that a county legislative delegation can appoint members to a county aviation commission that is established and whose members are appointed by a county council. However, a county council’s powers, especially its power of appointment to county commissions, are subject to the general laws of the State. See S.C. Code Ann. §§ 4-9-30; 4-9-170 (county councils “shall provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by the general law or the Constitution . . .”). “A law is general [pursuant to the South Carolina Constitution]¹ when it applies uniformly to all persons or things within a proper class, and special when it applies to only one or more individuals or things belonging to that same class.” Kizer v. Clark, 360 S.C. 86, 92–93, 600 S.E.2d 529, 532 (2004). Section 55-1-80 grants all county legislative delegations the power to appoint additional members to a county aviation commission.

¹ See S.C. Const. art. III, § 34(IX) (“[w]here a general law can be made applicable, no special law shall be enacted . . .”).

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CONCLUSION

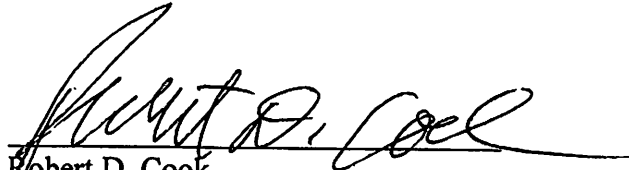
It is our opinion that, pursuant to section 55-1-80, a county legislative delegation can increase a county aviation commission by two members (one member appointed by the county House of Representatives delegation and one member appointed by the county Senate delegation). At the same time, we believe that a county council can add two members to a county aviation commission. Accordingly, it is our opinion that a court would most likely find that you, as the sole House of Representatives Delegation Member for Hampton County, have the authority pursuant to section 55-1-80 to appoint an additional member to the Hampton County Airport Commission.

Sincerely,



Elinor V. Lister
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General