

1984 WL 250007 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 13, 1984

\*1 Joseph H. Earle, Jr., Esquire  
Greenville County Attorney  
100 Courthouse Annex  
Greenville, South Carolina 29601

Dear Mr. Earle:

By your letter of October 24, 1984, you have requested the opinion of this Office on whether certain duties formerly assigned to the county supervisors may have devolved upon the county administrator and county council since the adoption of Home Rule in Greenville County. It is your opinion that these duties did devolve upon local government when Home Rule was adopted and, therefore, the county administrator and county council would be jointly responsible for carrying out duties formerly delegated to the county supervisor. This Office concurs with your opinion.

[Section 58-17-1450](#), [58-17-1460](#), and [58-17-1470](#), [Code of Laws of South Carolina \(1976\)](#), mandate that the county supervisor examine all railroad crossings of the public roads in the county at least once each year, notify the railroad company of any unsafe conditions, and file a report of the yearly examination with the Clerk of Court. Failure of the county supervisor to comply with these provisions could subject the county supervisor to indictment and, 'on conviction, [a fine] in a sum not less than one hundred dollars nor more than five hundred dollars and as a part of the judgment his office shall be declared vacant,' pursuant to [Section 58-17-1500](#). You have asked whether these statutes are still viable, presumably since the county supervisor's position has been abolished. This Office can find no evidence that these statutes have been repealed, modified, amended, or otherwise declared void or of no effect by either the courts or the legislature. Indeed, considering the public purpose served by these statutes, this Office believes that the statutes continue to be valid even though the county supervisor is no longer the official to be charged with the inspection and related duties.

Effective June 29, 1976, Greenville County assumed the Council-Administrator form of government, pursuant to Home Rule. Subsequently, the office of Greenville County Supervisor was abolished. [Greenville County Council v. Ashmore](#), [274 S.C. 466](#), [265 S.E.2d 38](#) (1980). Generally speaking, the office of county supervisor was a creature of pre-Home Rule statutes. The duties and responsibilities formerly delegated to county supervisors by [Section 14-251 et seq. of the Code \(1962\)](#) were devolved upon local government with the passage of the Home Rule Act. [Hardy v. Francis](#), [273 S.C. 677](#), [259 S.E.2d 115](#) (1979). Under the Council-Administrator form of government, the question is who has taken over the duties and responsibilities formerly delegated to the county supervisor.

According to [Hardy v. Francis](#), *supra*, the duties and responsibilities were devolved upon local government. In this instance, 'local government' would consist of the Greenville County Council and the County Administrator, pursuant to the County's adoption of that form of government. Duties and responsibilities of the council and the administrator are found in [Sections 4-9-30 et seq. and 4-9-620 et seq. of the Code](#) and also in [Sections 2-5 and 2-7 of the Greenville County Code of Laws](#). Unlike the county supervisor, who was given jurisdiction over roads, highways, bridges, and so forth by [Section 14-254 of the 1962 Code](#), neither council nor the administrator is specifically given jurisdiction over these matters. However, such jurisdiction is reasonably inferable from all relevant statutes. [See](#) [Section 4-9-30\(5\)](#), in which public safety and roads are considered to be local governmental functions.

\*2 Considering the above discussion, this Office would concur with your opinion that the responsibilities of the county supervisor under [Section 58-17-1450](#) et seq. of the Code have devolved upon the County Administrator and County Council of Greenville County.

Sincerely,

Patricia D. Petway  
Assistant Attorney General

1984 WL 250007 (S.C.A.G.)

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.