



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

May 24, 1995

The Honorable Carole C. Wells
Member, House of Representatives
530-D Blatt Building
Columbia, South Carolina 29211

RE: Informal Opinion

Dear Representative Wells:

By your memorandum of May 8, 1995, to Attorney General Condon, you have sought an opinion as to whether or not it is proper for a commissioner of the Croft Fire District to reject a proposed budget as written by the Fire Chief and inform the Chief that the commissioner will write the budget himself.

The Croft Fire District was established pursuant to Act No. 879 of 1960, as amended by Act Nos. 177 of 1961 and 1956 of 1972. As to financial matters, section 5(a) of Act No. 879 of 1960 provides that the Board of Fire Control (sometimes referred to as the commissioners) is authorized "[t]o buy such fire fighting equipment as the board deems necessary for the purpose of controlling fires within the money allocated or made available to the board for such purposes." Section 5(h) authorizes the Board to borrow in anticipation of taxes. Then, section 6 provides:

The Auditor and Treasurer of Spartanburg County are hereby directed to levy and collect a tax of not more than two mills, to be determined by the Board of Fire Control, upon all the taxable property of the district for the purpose of defraying the expenses incurred by the board. All monies collected from this levy shall be credited to the fire district.

It appears from the enabling legislation that the question of who may or must propose, or revise, an anticipated budget is not addressed therein.

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As to duties of the fire chief of the Croft Fire District, the only specific reference which I was able to locate was in section 7 of Act No. 879 of 1960:

The fire chief or equivalent official of the truck company to which the equipment is assigned shall have complete supervision over its use and operation and it shall be his responsibility to insure that the equipment is readily available for use at all times.

I did not locate a provision within the enabling legislation which would assign the fire chief any responsibility in the budgetary process.

Because the enabling legislation is silent as to what part the fire chief is to play in the budgetary process, I am of the opinion that such would be a matter of policy for the Board of Fire Control to resolve.¹ The Board could certainly seek the input of the fire chief, for instance. Thus, I am of the opinion that the enabling legislation does not permit a definitive answer as to the propriety of a commissioner of the Croft Fire District rejecting the proposed budget as written by the fire chief and informing the chief that the commissioner will write the budget himself; such is simply not addressed in the enabling legislation of the District.

This letter is an informal opinion only. It has been written by a designated Assistant Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion. I trust that the foregoing has responded as satisfactorily to your inquiry as is possible under the circumstances.

With kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

¹There may well be a policy or at least a tradition in place already that would suggest that input from the fire chief into the budgetary process be sought. This Office would have no way of knowing whether that is the case.