



The State of South Carolina  
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER  
ATTORNEY GENERAL

June 3, 2005

The Honorable Donald C. Smith  
Member, House of Representatives  
921 West Woodlawn Avenue  
North Augusta, South Carolina 29841

Dear Representative Smith:

By letter, you requested an opinion addressing redistricting in the Edgefield County school board districts. You explain that the proposed redistricting plan failed to pass the County Delegation due to a tie vote. Specifically, you have asked if the plan were resubmitted, could the Edgefield County Delegation vote on it at a different location or must the plan go back to the floor of the General Assembly. Following review of this matter, this Office advises that a county redistricting plan must be enacted on the floor of the General Assembly.

The supreme legislative power of the state is vested in the General Assembly. Article III, Section 1, South Carolina Constitution; *Parker v. Bates*, 216 S.C. 52, 56 S.E.2d 723, 725 (1949). A county legislative delegation possesses no inherent powers and cannot exercise sovereign authority, absent a delegation of authority to it by the General Assembly. *State v. Watkins*, 259 S.C. 185, 191 S.E.2d 135 (1972). In addition, a legislative delegation is not permitted to execute or enforce a law. See, *Knotts v. S.C. Dept. of Natural Resources*, 348 S.C. 1, 558 S.E.2d 511, 514 (2002). The members of a county delegation may not participate in a determination as legislators because they may only exercise legislative power as members of the General Assembly. See, *Gunter v. Blanton*, 259 S.C. 436, 441, 192 S.E.2d 473 (1972). Furthermore, serious constitutional questions arise when county delegations are empowered with executive or judicial functions. See, *Op. Atty. Gen.* July 11, 1983.

We note that it appears the Edgefield County Delegation has continued forward in the legislative process by resubmitting the redistricting plan to the floor of the General Assembly. Bill H.4142 appears to deal with the same redistricting issue presented in your letter. Accordingly, the specific issue presented is moot.

With respect to the general issue regarding the power of a county legislative delegation, the aforementioned law indicates that county delegations are limited in their authority. A grant of authority which would provide county delegations legislative power outside of their constitutional role as members of the General Assembly presents issues as to the constitutionality of the

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delegation's actions. Likewise, a legislative delegation may not exercise executive or judicial powers. Therefore, we concur with you that a redistricting plan resubmitted to a county delegation must go back to the General Assembly floor for voting.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert D. Cook", written over a faint circular stamp.

Robert D. Cook  
Assistant Deputy Attorney General