

6244 February



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

March 16, 1998

G. P. Callison, Jr., Esquire
McCormick County Attorney
Post Office Box 3208
Greenwood, South Carolina 29648

RE: Informal Opinion

Dear Mr. Callison:

Your opinion request has been forwarded to me for reply. You have asked whether McCormick County is responsible for providing legal advice to or paying for the legal representation of the McCormick County Board of Election and Registration.

The Board of Election and Registration of McCormick County was created by Act No. 178 of 1995. This Act provides that there are five members of the board who must be appointed upon recommendation of a majority of the McCormick County Legislative Delegation, including the Senator. Section 1(A). The Act further provides that the board shall receive an annual appropriation from the governing body of McCormick County in an amount not less than that received for the operation of both the commissioners of election and board of registration for fiscal year 1994-1995. Section 1(E).

As an initial matter, County Boards of Registration and Election are responsible for, among other things, the registration of electors who apply for registration in the county and the carrying out of the election in the county. S.C. Code Ann. § 7-5-30; § 7-13-70. This Office has previously concluded that county election commissioners are county officers, despite the fact that they are appointed by an authority "outside county government." Op. Atty. Gen. dated April 6, 1989. It follows that county boards of registration and election, as the units responsible for the conduct of the election process in the county, are county offices. The fact that the county government does not have the power to appoint members of the board does not change their identity as county offices.

Request Letter

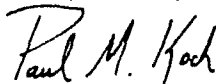
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As to your specific question, since the Board of Election and Registration is a county office, McCormick County would have the same responsibility in providing legal advice or paying for legal representation for the Board as it would for any other county agency or office. In many counties, the county attorney by county ordinance or contract, represents county governmental agencies in civil matters. Since I do not know the exact duties of the McCormick County Attorney, I am unable to state whether such is the case in McCormick County. If such is the case, then the county attorney would represent the Board of Election and Registration as it would any other county agency. If the county attorney is not authorized to represent county governmental agencies such as the Board, Act No. 178, Section 1(E) provides that the McCormick County governing body shall provide appropriations for the operation of the Board. The operation of the Board would naturally include the need for legal representation for legal conflicts arising out the Board's duties. Therefore, such legal expenses would fall within the scope of appropriations by the county governing body for the operation of the Board. Accordingly, whether done so by the county attorney or otherwise, McCormick County would be responsible for providing for legal representation of the Board, as it would any county agency or office.

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.

With kindest regards, I remain

Very truly yours,



Paul M. Koch

Assistant Attorney General