

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE: 803-734-3970
FACSIMILE: 803-253-6283

June 11, 1993

The Honorable William D. Keyserling
Member, House of Representatives
P. O. Box 2145
Beaufort, South Carolina 29901

Dear Representative Keyserling:

In a letter to this Office you questioned the construction of S.C. Code Section 48-39-40 which provides for the appointment of the members of the State Coastal Council. Such provision states in part:

There is created the South Carolina Coastal Council which consists of fourteen members as follows: eight members, one from each coastal zone county, to be elected by a majority vote of the members of the House of Representatives and a majority vote of the Senate members representing the county from three nominees submitted by the governing body of each coastal zone county, each House or Senate member to have one vote; ... (emphasis added.)

You questioned whether a county council must select three nominees from which an appointment may be made or may a council select "up to three" nominees which would in your opinion narrow the choices available.

In construing statutes the primary objective of both the courts and this office is to determine and effectuate legislative intent as far as possible. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). To do so, the language of a statute will be examined and words given their plain and ordinary meanings. Worthington v. Belcher, 274 S.C. 366, 264 S.E.2d 148 (1980). In the absence of ambiguity, the literal meaning of language will be applied. State v. Goolsby, 278 S.C. 52, 292 S.E.2d 180 (1982).

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In keeping with such, it appears that in the absence of ambiguity the emphasized language of Section 48-39-40 must be construed literally. The statute provides for the submission of three nominees by each county governing body. There does not appear to be any basis for the submission of less than three nominees by these bodies.

You also questioned the situation where a legislative delegation does not agree to any of the nominees submitted by the county governing body. You asked whether you must accept a nomination regardless of your perception of the nominee or is the delegation permitted to send any nomination back to the county. Again, the literal language of Section 48-39-40 must be construed. The provision states that the members of the Coastal Council are to be elected from the nominees submitted by the counties. There is no provision for review of nominees by a delegation before a vote or the return of any nomination. Such may be contrasted with other statutes which specifically provide for rejection of nominees for a particular board with the result that additional names be submitted for consideration. See, e.g. S.C. Code Sections 40-9-30 (for the State Board of Chiropractic Examiners "... the Governor may reject any or all of the nominees upon satisfactory showing as to unfitness of those rejected. If the Governor declines to appoint any such nominees so submitted, additional nominees shall be submitted in the same manner.); 40-13-35 (Advisory Committee to the State Board of Cosmetology), 40-15-20 (State Board of Dentistry), 40-35-20 (State Board of Examiners for Nursing Home Administrators), 40-37-20 (State Board of Examiners in Optometry). It appears therefore that a delegation is not given authority to review any particular nomination or request the submission of additional nominees.

If there is anything further, do not hesitate to contact me.

Sincerely,



Charles H. Richardson

Assistant Attorney General

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REVIEWED AND APPROVED BY:



Robert D. Cook

Executive Assistant for Opinions