

05-5817.
L. Lehman



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

February 5, 1996

The Honorable Bob Waldrep
Senator, District No. 3
604 Gressette Building
Columbia, South Carolina 29202

RE: Informal Opinion

Dear Senator Waldrep:

By your recent letter to Attorney General Condon, you have sought an opinion as to the meaning of the phrase "host local government" and the standards for eligibility to serve on the citizens facilities issues committee, relative to S.C. Code Ann. §44-96-470 (1995 Cum. Supp.) From an enclosure with your request, the inquiry arises in the context of a tri-county landfill which is apparently in the process of obtaining the necessary permits for operation.

In interpreting a statute such as §44-96-470, the cardinal rule is to ascertain and effectuate legislative intent whenever possible. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Words used in a statute are to be given their plain and ordinary meanings. Worthington v. Belcher, 274 S.C. 366, 264 S.E.2d 148 (1980). Where the language of a statute is plain and unambiguous, the words must be applied according to their literal meanings. State v. Goolsby, 278 S.C. 52, 292 S.E.2d 180 (1982).

"Host Local Government"

The South Carolina Solid Waste Policy and Management Act of 1991, of which §44-96-470 is a part, does not contain a definition of "host local government." The term "local government" is defined in §44-96-40(25), however:

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a county, any municipality located wholly or partly within the county, and any other political subdivision located wholly or partly within the county when such political subdivision provides solid waste management services.

The word "host" is not defined in these statutes; a definition from The American Heritage Dictionary (Second College Edition), page 624 indicates that a "host" is "[o]ne that furnishes facilities for a function" Within §44-96-470(C) is the phrase "host local government for the proposed site." I am of the opinion that the "host local government" would therefore be the political subdivision which is furnishing the facilities for the solid waste landfill being developed on a regional or multi-county basis.

Citizens Committee

The citizens facilities issues committee is appointed as a result of a petition process initiated pursuant to §44-96-470(F):

Within thirty days following a public meeting held in accordance with subsection (C), a facility issues negotiation process shall be initiated by the host local government upon receipt of a written petition by at least twenty-five affected persons, at least twenty of whom shall be registered voters of or landowners in the host jurisdiction. ... For purposes of this subsection, the term "affected person" means a registered voter of the host local government or of a county contiguous to such host local government or a landowner within the jurisdiction of the host local government. ...

Then, subsection (I) of §44-96-470 provides:

The host local government shall organize the petitioners meeting. The majority of the petitioning persons in attendance shall select up to ten members, at least eighty percent of whom shall be registered voters or landowners in the host local government, to serve on a citizens" [sic] facility issues committee to represent the petitioning persons in the negotiation process. The membership of the citizens" [sic] facility issues committee shall be chosen within fifteen days following the validation of such written petition pursuant to this section.

The plain language of §44-96-470(I) indicates that the committee is to be comprised of up to ten members, eighty percent (i.e., eight or more of the ten) who are to be registered voters or landowners in the host local government.

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From the enclosure with your letter, it is apparent that some of your constituents are concerned about the input of citizens from counties other than the "host local government" into the negotiating and permitting process. I am of the view that the statutory language relative to the selection process for the citizens facility issues committee is not ambiguous and must therefore be applied literally. If the General Assembly should disagree with my interpretation or should determine that greater input from citizens outside the "host local government" would be desirable, certainly the General Assembly could amend the relevant statutes to change the citizen participation procedures.

This letter is an informal opinion only. It has been written by a designated Senior 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 am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Senior Assistant Attorney General