

The State of South Carolina



Office of the Attorney General

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November 13, 1986

The Honorable Robert B. Brown
Member, South Carolina House of
Representatives
Drawer 660
Marion, South Carolina 29571

Dear Representative Brown:

You have requested the advice of this Office as to whether the Marion County Board of Education (County Board) has the authority to operate the various school districts in Marion County. R.334, Acts and Joint Resolutions of South Carolina, 1986 provides for the election of the County Board, and, at Section 6, gives it the following authority with respect to the school districts:

SECTION 6. The County Board of Education has the authority to operate the school district or districts in any manner approved by the elected board, including the delegation of authority to any school district board of trustees. Consolidation of any existing school districts or abolition of any district board of trustees by the board of education must first have the approval of the qualified electors in the school district, in a referendum called in the same manner as provided for in Chapter 9, Title 4, of the 1976 Code.

The following rule of statutory construction is applicable here:

"In the construction of statutes, the dominant factor is the intent, not the language of the legislature. Abell v. Bell, 229 S.C. 1, 91 S.E.2d 548 (1956). A statute must be construed in light of its intended purposes, and, if such purpose can be reasonably discovered from its language, the purpose will prevail over the literal import of the statute." Id. Spartanburg Sanitary Sewer District v. City of Spartanburg, et al., 321 S.E.2d 258 (S.C. 1984).

Although the County Board is not expressly given the powers of boards of trustees generally, the broad grant of authority in R.334

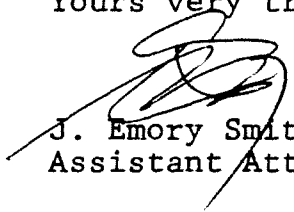
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to operate the school districts indicates a legislative intent that the County Board in Marion County have the same authority to operate a school district as does a board of trustees. See §59-19-90. As the more recently passed legislation, the authority of the County Board under R.334 would be controlling with respect to earlier local legislation concerning the powers of the district boards of trustees. (Section 21-3465 of the Code of Laws of South Carolina, 1962; Sutherland Statutory Construction, Vol. 2A, §51.02); however, R.334 indicates that the Board of Trustees must retain some degree of residual administrative authority in that consolidation of any existing school districts or the abolition of any district boards of trustees cannot be accomplished absent the approval of voters in a referendum. For the County Board to leave the trustees with no authority would, in effect, abolish those boards without the referendum required by R.334. The amount of the residual authority that is retained by the Board of Trustees would be determined by the County Board pursuant to Section 6 of R.334.

In conclusion, R.334, Section 6 appears to give the Marion County Board of Education the authority to operate the various school districts or to delegate the authority to do so to the existing Boards of Trustees; however, in the discretion of the County Board, some residual administrative authority should be left with the district boards of trustees absent the approval of the electors in a referendum for the consolidation of the districts or the abolition of a district board of trustees.


If you have any questions, please let me know.

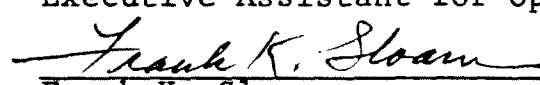
Yours very truly,


J. Emory Smith, Jr.
Assistant Attorney General

JESjr/srcj

REVIEWED AND APPROVED BY:


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