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The State of South Carolina



Office of the Attorney General

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July 12, 1985

Leonard E. Singletary, Director
Marion County Vocational Education Center
Post Office Box 890
Marion, South Carolina 29571

Dear Mr. Singletary:

In a letter referred to this Office by Representative Robert Brown you questioned what law governs the composition of the board of trustees of the Marion County Vocational Education Center.

Section 59-53-1880 of the Code, a provision originally enacted in 1966, authorized school districts to affiliate with each other for the purpose of promoting vocational education. Thereafter, pursuant to a special law, Act No. 1204 of 1968, Marion School District No. 1 and Mullins School District No. 2, became so affiliated. Also included in such act was a provision creating a Marion-Mullins Vocational Education Board of Trustees with eleven members.

Pursuant to a general law provision now codified as Section 59-53-1900 of the Code which was approved June 4, 1975, school districts, without regard to county lines, were authorized to create vocational school boards to operate and oversee vocational schools established through the affiliation of the districts. In addition to providing for a six member board, such statute provided a detailed scheme for the selection of the six board members.

On July 14, 1975 the Governor approved Act No. 410 of 1975, special legislation for Marion County. Included in such act were provisions authorizing two other school districts to join the Marion County vocational school program. Such act also amended Act No. 1204 of 1968 so as to provide for a twelve

REQUEST LETTER

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Continuation Sheet Number 2
To: Mr. Leonard E. Singletary
July 12, 1985

member Marion County Vocational Education Board of Trustees. 1/

In 1979 Section 59-53-1900 was amended. Included in the amendments was the following provision:

"(t)he superintendent of each participating district shall serve as an ex officio non-voting member of the board. The superintendents shall be administrative members of the board and shall jointly nominate staff and assume such responsibilities and perform such duties as may be prescribed by law or by regulations of the State Board of Education or as may be prescribed by the vocational school board.

1/ Such provision specifically states:

"(t)here is hereby created the Marion County Vocational Education Board of Trustees, which shall be a body politic and corporate, and which shall consist of twelve members as follows: three members of the Board of Trustees of Marion School District No. 1 who shall be elected by such board, three members of the Board of Trustees of Mullins School District No. 2 who shall be elected by such board, two members of the Board of Trustees of Lower Marion County School District No. 3 who shall be elected by such board, two members of the Board of Trustees of Brittons Neck School District No. 4 who shall be elected by such board, two members of and appointed by the County Board of Education of Marion County, and the clerk of the county board of education who shall serve ex officio. The terms of the members shall be for two years or until their successors are appointed and qualify. Any vacancy shall be filled in the manner of the original appointment for the unexpired portion of the term only. All memberships on the board shall be ex officio by virtue of memberships on the other respective boards."

Continuation Sheet Number 3
To: Mr. Leonard E. Singletary
July 12, 1985

Referencing the above, it is clear that here is a situation where there are general provisions dealing with vocational school boards generally, namely Section 59-53-1900, and special laws dealing with the Marion County Vocational Education Center Board of Trustees, namely Acts Nos. 1204 of 1968 and 410 of 1975.

Generally, statutes in pari materia [pertaining to the same subject matter] should be construed together and reconciled, if possible, so as to render both operative. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970). See also: 2A Sands, Sutherland Statutory Construction, Section 51.02. Moreover, repeals by implication are not favored. State ex rel. McLeod v. Ellisor, 259 S.C. 364, 192 S.E.2d 188 (1972). As indicated above, a general law provision, Section 59-53-1900, was enacted in 1975. An argument could be made that such provision repealed Act No. 1204 of 1968, a special act for Marion County. However, in addition to the fact that repeals by implication are not favored, as noted, a month after Section 59-53-1900 was enacted Act No. 410 of 1975, which amended Act No. 1204 of 1968, was approved. Generally, where two acts are passed at about the same time or at the same session of a legislature, such is strong evidence that they were intended to stand together. 73 Am.Jur.2d, Statutes, Section 403. If both acts can be construed so that both may stand, a court will so construe them. City of Spartanburg v. Blalock, 223 S.C. 252, 75 S.E.2d 360 (1953).

Also, it has been stated that

"general and specific statutes should be read together and harmonized if possible. But to the extent of any conflict between the two, the special statute must prevail." Criterion Insurance Company v. Hoffman, 258 S.C. 282, 188 S.E.2d 459 (1972); accord, Culbreth v. Prudence Life Insurance Company, 241 S.C. 46, 127 S.E.2d 132 (1962).

More specifically, the South Carolina Supreme Court has stated:

"(w)here there is one statute dealing with a subject in general and comprehensive terms and another dealing with a part of the same subject in a more minute and definite way, the two should be read together and harmonized, if possible, with a view to giving effect to a consistent legislative policy; but to the extent of any necessary repugnancy between

Continuation Sheet Number 4
To: Mr. Leonard E. Singletary
July 12, 1985

them, the special will prevail over the general statute. Where the special statute is later, it will be regarded as an exception to, or qualification of, the prior general one; and where the general Act is later, the special will be construed as remaining an exception to its terms, unless it is repealed in express words or by necessary implication." Smith v. South Carolina State Highway Commission, 138 S.C. 374 at 379, 136 S.E. 487 (1927).

As stated, it is a canon of statutory construction that a later act general in its terms and not expressly repealing a prior special act will be considered as not intended to affect the special act unless the intention to effect the repeal is clearly manifested or unavoidably implied by the irreconcilability of the continued operation of both. Again, however, if both acts can be construed so that both may stand, the court will so construe them. City of Spartanburg v. Blalock, supra.

Referencing the above, it is the opinion of this Office that the provisions of Act No. 410 of 1975 which established a twelve member board for the Marion County Vocational Education Board continue to be applicable. Therefore, the provisions of Section 59-53-1900 which authorize a six member board in such situation are not applicable to such Board. However, these two provisions may still be construed together so as to require that the provisions of Section 59-53-1900 which, as referenced above, state that the superintendents of each participating district shall serve as an ex-officio non-voting member of vocational school boards would also be applicable to the Marion County Vocational Education Board of Trustees.

If there are any questions, please advise.

Sincerely,

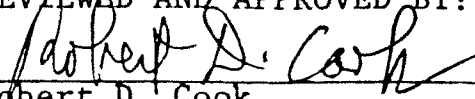


Charles H. Richardson
Assistant Attorney General

CHR:djg

cc: The Honorable Robert B. Brown

REVIEWED AND APPROVED BY:


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