1984 WL 249875 (S.C.A.G.)

Office of the Attorney General

State of South Carolina
May 1, 1984

***1** Robert M. Bell, Esquire
Aiken County Attorney
Post Office Drawer I
Langley, South Carolina 29834

Dear Mr. Bell:
By your letter and memorandum dated January 27, 1984, you asked whether the amendments to Aiken County's ordinance to establish standards and procedures for the franchising of private ambulance services (hereafter, 'ordinance'), as amended on third and final reading, so changed the meaning of the ordinance so as to require it to be re-introduced as a new ordinance and taken through three (3) readings before it could be legally adopted.

In your memorandum you reviewed the applicable law, particularly Section 4-9-120, CODE OF LAWS OF SOUTH CAROLINA (1976), which provides the procedure by which a county council shall enact ordinances. As you pointed out, there is no statutory prohibition against a county council making amendments after an ordinance is introduced by first reading. Citing 5 McQuillin, Municipal Corporations § 16.87, you add, 'Even in those instances where charters provide that no Ordinance shall be so amended on its passage as to change the original purpose, the meaning of such a provision is interpreted that the original general purpose (emphasis added) cannot be changed on passage.' You concluded that '[t]he amendments adding to and deleting from the Ordinance during the process of its adoption were not such that it would have been necessary to re-introduce the Ordinance for first reading and, therefore, the Ordinance is not illegal.'

While South Carolina does not appear to have a statutory or constitutional provision pertaining to amendments to be made to pending legislation by the legislature or the governing body of a municipality or county, we believe you have stated the general law in your memorandum. Courts in other states have permitted such amendments where the original legislation was not so altered as to change the original purpose of the legislation. See, Opinion of the Justices, 335 So.2d 373 (Ala. 1976). Such amendment would be permitted where one means of effectuating the purpose of the legislation was merely substituted for another to accomplish the same purpose. See, People v. Brown, 174 Colo. 513, 485 P.2d 500, app. dism'd. 404 U.S. 1007, 92 S.Ct. 671, 30 L.Ed.2d 656 (1971). 'Purpose' means the general purpose of the legislation and not the mere details through which the legislative purpose is manifested and effectuated. Opinion of the Justices, 383 So.2d 527 (Ala. 1980).

After reviewing the ordinance with its proposed amendments, and considering the general law stated in your memorandum and outlined above, we believe that if the ordinance were challenged, a court would most probably conclude that the purpose of the ordinance remains unchanged, that only details by which the ordinance would be effectuated have been changed. Thus, we would agree with your conclusion that the ordinance would not need to be re-introduced and that the ordinance would most probably not be illegal.

***2** I apologize for the slow response to your request, but this matter was only recently reassigned to me. Thank you for your memorandum, per our new policy; having input from the local attorney assists this Office greatly. Please advise me if you need clarification or additional information.
Sincerely,

Patricia D. Petway

Staff Attorney

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