

1984 WL 249792 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 30, 1984

***1 RE: Act 441 (1959)—Greenwood Metropolitan District**

The Honorable Thomas L. Hughston, Jr.

Member

House of Representatives

333-A Blatt Building

Columbia, South Carolina 29211

Dear Representative Hughston:

This is in response to your request for an opinion as to the composition of the Greenwood Metropolitan Commission and who appoints, elects, or recommends for appointment the members of this body in light of the 'Home Rule Legislation' of [§ 4-9-10, et seq., CODE OF LAWS OF SOUTH CAROLINA \(1976\)](#).

In 1959, the General Assembly, by Act No. 441, created a special purpose sewer district in Greenwood County, known as the Greenwood Metropolitan District. Section 2 of the Act established the Greenwood Metropolitan Commission (Commission) as the governing body of the District and provided that the Commission shall be composed of six members. The three commissioners of public works for the City of Greenwood were to be three of the members and the other three were to be appointed by the Governor upon the recommendation of the Greenwood County Legislative Delegation.

In 1970, Act No. 1228 created the Greenwood County Finance Board as the governing body of Greenwood County. Among the powers granted to the Finance Board was the authority to perform all functions related to the recommendation for appointment of commissions as was formerly vested in the Greenwood County Legislative Delegation.¹ Hence, the Finance Board was empowered to make the recommendations for appointment to the Greenwood Metropolitan Commission.

In 1973, new [Article VIII, § 1 of the South Carolina Constitution](#) went into effect, stating that the powers possessed by counties at its effective date shall continue until changed in a manner provided by law. At this time the Finance Board had the power to make recommendations for appointment to the Commission, thus this power would continue until changed by law. See also Act No. 283 of 1975, § 3.

[Article VIII, § 7 of the Constitution](#) gives the General Assembly the authority to prescribe the powers of county government and in 1975, the General Assembly passed Act No. 283,² which implemented Home Rule and designated those powers. Section 4-9-30. The powers so designated included the authority to establish such commissions as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof, and to regulate, modify, merge, or abolish any such commissions, except as otherwise provided for in Title 4 of the Code.³

This rather broad grant of authority may seem to empower county governments to appoint commission members, however there are two other provisions of Title 4 which limit this general authority. First, § 4-9-80 specifically states that the provisions of Title 4, Chapter 9, shall not be construed to devolve any additional powers upon county councils with regard to water and sewer authorities and that such authorities shall continue to perform their statutory functions. By the proviso to § 4-9-80, the General Assembly acknowledged that some county governing bodies possess certain powers with respect to special purpose districts. Section 4-9-80 thus evidences knowledge on the part of the General Assembly that some counties already had power

with regard to special purpose districts and it also evidences their intent that this power not be increased and that things continue as they were before Home Rule.

*2 The second limitation on the authority of county government is found in § 4-9-170, which states that the council shall provide by ordinance for the appointment of all county commissions, but this authority shall not extend to special purpose districts or other political subdivisions created by the General Assembly. Again the General Assembly evidences its intent that water and sewer authorities and special purpose districts be exempt from the general power of the county governing bodies. As § 4-9-170 does not change the method of appointment of the members of special purpose districts, [Article VIII, § 1](#), would require that the mechanism presently in existence continue in operation.

By the operation of [Article VIII, § 1](#), and the plain meaning of §§ 4-9-80 and 4-9-170, it is clear that Home Rule has not affected the method of appointment of members of the Greenwood Metropolitan Commission. Accordingly, it is the opinion of this office that the Commission continues to be composed of three commissioners of public works for the City of Greenwood and three members appointed by the Governor upon the recommendation of the county governing body.

Sincerely,

James P. Hudson
Staff Attorney

Footnotes

- 1 Section 9(k), Act No. 1228 (1970).
- 2 Codified at [§ 4-9-10](#), et seq., CODE OF LAWS OF SOUTH CAROLINA (1976).
- 3 Section 4-9-30(6)

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