

1983 S.C. Op. Atty. Gen. 18 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-7, 1983 WL 142678

Office of the Attorney General

State of South Carolina

Opinion No. 83-7

March 22, 1983

**\*1 SUBJECT: Magistrates, Governor, Home Rule, Counties, Employees**

(1) Magistrates are appointed by the Governor by and with the advice and consent of the, Senate.

(2) A county is authorized to develop personnel system policies and procedures which would include magistrates' secretaries but such could not regulate the employment and discharge of such secretaries.

TO: James A. Bell, Esquire  
Dorchester County Attorney

QUESTION 1:

Is a magistrate considered an elected official or an official appointed by an authority outside county government?

OPINION:

As to your first question, [Article V, Section 23 of the State Constitution](#) provides that:

The Governor, by and with the advice and consent of the Senate, shall appoint a number of magistrates for each county. . . .

See also: [Section 22-1-10, Code of Laws of South Carolina](#), 1976.

Therefore, pursuant to such provision, magistrates are gubernatorial appointees.

QUESTION 2:

If a magistrate is such an elected or appointed official, does [Section 4-9-30\(7\), Code of Laws of South Carolina](#), 1976, prohibit the development of personnel system policies and procedures for magistrates' secretaries, or does it merely prohibit employment and discharge by any one other than the magistrate?

OPINION:

[Section 4-9-30\(7\)](#) provides in part that counties are authorized:

(7) to develop personnel system policies and procedures for county employees by which all county employees are regulated except those elected directly by the people, and to be responsible for the employment and discharge of county personnel in those county departments in which the employment authority is vested in the county government but this authority shall not extend to any personnel employed in departments or agencies under the direction of an elected official or an official appointed by an authority outside county government. . . .

Pursuant to such provision, a county is authorized to develop personnel system policies and procedures to regulate county employees which would include magistrates' secretaries. However, inasmuch as a magistrate is 'an official appointed by an authority outside county government,' such policies and procedures could not regulate the employment and discharge of magistrates' secretaries.

In reviewing the comments included in your letter concerning the intentions of such policies and procedures, I would suggest that you contact the South Carolina Court Administration Office as to their impressions of any county policies and procedures which would pertain to magistrates' courts and particularly as to how such policies and procedures may affect any directives issued by their office concerning magistrates' courts.

Charles H. Richardson  
Assistant Attorney General

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