

1981 WL 158102 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 6, 1981

***1** Honorable Eugene C. Stoddard

Chairman

House Education and Public Works Committee

330 A Blatt Building

Columbia, South Carolina 29201

Dear Representative Stoddard:

You have requested the opinion of this Office as to whether [§ 2-1-90 of the Code of Laws of South Carolina \(1976\)](#), applies to the part of § 59-9-10 which makes the chairman of the House Education and Public Works Committee a member of the Committee for Continuous Study of the Education System (Education Study Committee). [Section 2-1-90](#) states that the members of a standing committee may elect another committee member to serve in lieu of the chairman when a statute calls for the chairman to be a member of a board or commission, ex officio. Because your House Committee's position on the Education Study Committee is by virtue of the chairmanship, it is 'ex-officio'. See [Black's Law Dictionary](#), 516 (5th Ed., 1979). The question presented here is whether ex-officio membership on this committee comes within the terms of [§ 2-1-90](#) when that statute expressly applies only to ex-officio members of boards or commissions.

'Board' and 'commission' are not defined in [§ 2-1-90](#), and dictionary definitions of them and 'committee' do not preclude overlapping of their scope ([Black's Law Dictionary](#), 157 and 248; [Webster's Third New International Dictionary](#), 243, 457 and 458 (1976)); however, other Code provisions suggest that the boards and commissions of [§ 2-1-90](#) were not intended to include mere study committees. In a statute passed in 1975 along with the Act now codified as [§ 2-1-90](#), the legislature expressly exempted members of committees as well as members of boards and commissions from state personnel administration. [§ 8-11-260](#). That the legislature separately stated the names of those bodies in [§ 8-11-260](#) indicates that it recognized some distinction among them. Thus, that the legislature did not specify committee memberships in [§ 2-1-90](#) indicates that it did not intend to include them along with the board and commission memberships to which [§ 2-1-90](#) applies. This conclusion is consistent with distinctions in power between the Education Study Committee and some of the boards and commissions of which legislative committee chairmen are members. Section 59-7-10 makes certain committee chairmen members of the Educational Television (ETV) Commission which has the power to operate the ETV System. Other committee chairmen are made members of the Medical University Board of Trustees in which is vested the management and control of that University. [§ 59-123-40](#). See also [§ 50-3-10](#), South Carolina Wildlife and Marine Resources Commission. In contrast to the broad power of that board and those commissions, the Education Study Commission merely has the authority to make studies and prepare a report. The legislature may have intended for [§ 2-1-90](#) to provide an alternative to a legislative committee chairman's having to serve on a board or commission and meet the demands of its managerial duties. Committees such as the Education Study Committee may have been omitted because the duties were thought to be less time consuming.

***2** It is the opinion of this Office that [§ 2-1-90 of the Code](#), does not apply to the House Education and Public Works Committee chairman's membership on the Committee for Continuous Study of the Educational System (Education Study Committee) created by § 59-9-10. The applicability of [§ 2-1-90](#) relates to boards and commissions, such as those created by § 59-7-10 (Educational Television Commission), [§ 50-3-10](#) (South Carolina Wildlife and Marine Resources Commission) and [§ 59-123-40](#) (Medical University Board of Trustees), and not to study committees, such as the Education Study Committee.

Very truly yours,

J. Emory Smith, Jr.

Assistant Attorney General

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