

1981 WL 158139 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1981

*1 Sheriff Frank Powell
Office of the Sheriff
Post Office Box 143
Columbia, South Carolina 29201

Dear Sheriff Powell:

In response to your request for an opinion from this Office regarding a Richland County bingo ordinance, I can advise you as follows:

1. The provision which requires you as Sheriff to 'inspect each bingo operation weekly and make a monthly written report to the Richland County Council' is most probably unauthorized because a county council is not empowered by the provisions of Act No. 283 of 1975, the 'home rule' legislation, to alter, expand or infringe upon the duties of other county elected officials except in areas such as employee grievances [[§ 4-9-30\(7\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended], accounting and reporting [[§ 4-9-30\(8\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended], centralized purchasing systems [[§ 4-9-160, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended] and annual fiscal reports from all county offices, departments, boards, commissions or institutions receiving county funds [[§ 4-9-140, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended]. In addition, if the imposition of those duties requires an appropriation (such as an additional deputy) which results in a reorganization or restructuring of the sheriff's department, a county-wide referendum must first be held to approve that appropriation pursuant to [Section 4-9-30\(5\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended.

2. The bingo ordinance itself is most probably unauthorized because the game of bingo is regulated at the State level by Act No. 496 of 1980 [61 STAT. 1458 (1980)] enacted pursuant to the provisions of [Article XVII, Section 8 of the South Carolina Constitution](#). The law is well established that a political subdivision is without authority to enact ordinances where the State has pre-empted the area. See, e.g., 6 McQUILLIN MUNICIPAL CORPORATIONS §§ 21.24 *et seq.*, §§ 23.01 *et seq.* and §§ 24.124 *et seq.* (3rd ed. revised); [S.C. CONST. art. VIII, § 14\(6\)](#). Moreover, [Section 4-9-30\(14\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, prohibits a county from enacting ordinances with penalty provisions with regard to matters provided for by the general law except as specifically authorized by such general law. Act No. 496 is the relevant general law and it does not authorize the enactment of local ordinances.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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