

1983 S.C. Op. Atty. Gen. 59 (S.C.A.G.), 1983 S.C. Op. Atty. Gen. No. 83-39, 1983 WL 142710

Office of the Attorney General

State of South Carolina

Opinion No. 83-39

July 11, 1983

*1 Honorable Harry A. Chapman, Jr.
Member
South Carolina Senate
Box 10224, F. S.
Greenville, South Carolina 29603

Dear Senator Chapman:

You have requested that this office advise you as to whether a committee established by the Greenville County Legislative Delegation will be subject to the Freedom of Information Act, [Sections 30–4–10 et seq. of the Code of Laws of South Carolina \(1976\)](#), as amended.¹ According to the information that you have provided, the committee is to be composed of citizens of Greenville County who will serve without compensation. The committee will oversee the audit of the Greenville County school system which the Legislature has required. (R 163, 1983). The committee apparently will have final authority to decide how the audit is to be conducted including determining its scope and choosing the auditing firm. We have been advised that the School District will pay the costs of the audit including any incidental expenses of the committee such as for supplies and equipment.

The Freedom of Information Act (Act) applies to public bodies which are broadly defined to include entities which are supported in whole or in part by public funds or which expend public funds. Section 30–4–20(a). Consideration of the application of this definition to the committee in question should be guided by the remedial nature of the Act. [See, Florida Parole & Probation Commission v. Thomas, 364 So.2d 480 \(Fla.App. 1978\); Lamar v. McCord, 432 S.W.2d 753 \(Ark. 1968\)](#). Thus, this law should be liberally construed in light of the broad public purpose for which it was designed.

Previous opinions of this office have indicated that merely advisory bodies may not be subject to the Act's provisions. [See, 1979 Ops.Atty.Gen. No. 125, p. 178 and Ops.Atty.Gen. \(October 15, 1980, by J. Emory Smith, Jr.\)](#). The 1980 opinion concluded that a committee for Aiken County schools was merely advisory because the school district was free to accept or reject that committee's findings. In contrast, the committee in question here appears to have the power to make final decisions concerning a legislatively authorized and special tax supported audit. This power over such an apparently important matter indicates that the committee's powers are more than merely advisory.

Because the committee does not appear to be a merely advisory body, it may be subject to the Act if it is supported in whole or in part by public funds or if it expends public funds. The definition of public body does not give guidance as to what kind of support is required to bring an entity within its terms. Arguably, payment of all incidental expenses may be sufficient to do so. In addition, although the committee does not write the checks for the audit, its determination of its scope and choice of the firm to conduct it might be deemed to give it the power to expend funds. The amount of the expenditure for this audit is particularly significant in that the audit is supported by a special tax levy and any remaining funds from that levy are to be used to reduce bonded indebtedness. R 163.

*2 The above reasons indicate that the committee is a 'public body' subject to the Freedom of Information Act. If we may be of further assistance, please do not hesitate to contact our office.

With best regards, I am

Sincerely yours,

T. Travis Medlock
Attorney General

Footnotes

- ¹ This letter expresses no opinion as to whether the committee is validly constituted.
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