

1983 WL 181953 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 28, 1983

***1 Re: Cherokee County Memorial Hospital**

Mr. Gary E. Clary, Esquire
231 East Buford Street
Gaffney, South Carolina 29342

Dear Mr. Clary:

You have asked for an opinion from this office as to whether the Finance Committee of the Board of Trustees of the Cherokee County Memorial Hospital is subject to the public meeting requirements of the Freedom of Information Act. It is our opinion that the Committee is a public body as that term is defined in the Freedom of Information Act and is, therefore, subject to those provisions of the Act.

The Freedom of Information Act, by its terms, applies to 'any public or governmental body.' § 30-4-29(a), Code of Laws of South Carolina, 1976 (as amended). There is no question that the Board of Trustees is a public or governmental body. The definitional section does not, however, state explicitly whether a committee of such body is or is not a public or governmental body itself. The Act, at § 30-4-80(b), supra, makes a special exception, from the general notice provisions of the Act, for legislative committees and subcommittees of standing legislative committees. § 30-4-80(b), supra. Reading subsection (b) in the context of the full section 30-4-80 as well as in the context of the entire Act, it is apparent that legislative committees and subcommittees of standing legislative committees are deemed 'public bodies' for purposes of the Act. If legislative committees and subcommittees are subject to the requirements of the Act, no reason appears as to why committees and subcommittees of other entities should be excluded.

Judicial interpretation of Freedom of Information Acts in other states is instructive in further analyzing this question. Generally committees of public bodies are subject to the same FOI requirements as the parent bodies. [Arkansas Gazette Co. v. Pickens](#), 522 S.W.2d 350 (Ark., 1975) (Student Affairs Committee of University Board of Trustees); [Skelkove v. Bean](#), 249 A.2d 35 (N.H., 1969) (Finance Committee of City Council). [Bigelow v. Howze](#), 291 So.2d 645 (Fla. App., 1974) (Committee of County Commission). The rationale for including committees of public bodies within the respective state statutes is that 'committee recommendations are often accepted by public bodies at face value and with little discussion.' [Bigelow v. Howze](#), supra at 647. In any event, committee actions are frequently one step in the decision-making process of the parent public bodies. See [Times Publishing Co. v. Williams](#), 222 So.2d 470, 473 (Fla. App., 1969). Therefore a committee of a public body may itself be deemed a public body for purposes of the FOI Act.

Of course not every committee would be subject to the Freedom of Information Act. See e.g. [McCarty v. Board of Regents](#), 200 S.E.2d 117 (Ga., 1973) (Student-Faculty Committee organized by Dean of Student Affairs is not subject to Act because the committee has no authority to make governmental decisions); [People ex rel. Cooper v. Carlson](#), 328 N.E.2d 675 (Ill. App., 1975) (Employees of county development committee who meet voluntarily to make recommendations to the committee are not subject to the Act.) As indicated in these cases, only a committee established to perform some governmental function would be subject to the FOI Act.

***2** The Finance Committee of the Board of Trustees of the Cherokee County Memorial Hospital clearly does perform established governmental functions, as set out in the bylaws of the Board. Art VI, § 3. These include preparing a comprehensive budget to submit to the Board, approving all capital equipment expenditures, and recommending changes in room rates and

other major charges to the Board for final approval and adoption. Although it is recognized that any recommendations of the Finance Committee must be approved by the full Board of Trustees at a regularly scheduled meeting before the recommendation can be adopted and implemented, nonetheless the committee is acting as a public body, performing a governmental function, in making these recommendations. The committee is, therefore, subject generally to the FOI Act. Of course the committee may meet in executive session, in accordance with § 30-4-70, supra, to conduct business which necessitates a closed meeting.

There are earlier opinions from this office that have advised that a committee comprised of less than a quorum of the parent entity are exempt from the FOI Act. See e.g., 1980 Op. Atty. Gen. No. 80-19, p.43. That conclusion has some support. See e.g., Arkansas Gazette Co. v. Pickens, supra at 358 (concurring opinion). However the greater weight of authority supports the conclusion reached in this opinion. For the foregoing reasons we would advise that the Finance Committee of the Hospital Board of Trustees is a public body and is, therefore, subject to the public meeting requirements of the FOI Act.

Sincerely yours,

T. Travis Medlock
Attorney General

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