

1980 WL 120592 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 9, 1980

*1 Charles M. Timmons
Acting Chairman
Greenville County Election Commission
1-A Courthouse Annex
Greenville, South Carolina 29601

Dear Mr. Timmons:

You have asked the opinion of this Office on whether a county election commission may conduct municipal elections when called upon to do so by municipal election commissions.

County election commissions are established by [§ 7-13-70, Code of Laws of South Carolina](#), 1976, and are vested with the authority to carry out elections in which county balloting is involved. See Title 7, Chapters 13, 15, and 17 of the Code. A review of Title 7 does not reveal that county election commissioners are vested with any authority with regard to municipal elections.

Title 5, Chapter 15 of the Code contains the statutes providing for the administration of municipal elections. More specifically, § 5-15-90 creates municipal election commissions, and § 5-15-100 mandates that such commissions 'shall . . . supervise and conduct all municipal, special and general elections.' The remainder of Chapter 15 vests municipal election commissions with distinct responsibilities arising from the holding of municipal elections.

A review of the above-noted statutes establishes beyond doubt that the General Assembly intended for county and municipal elections to be conducted by two distinct, separate administrative bodies. Furthermore, the review confirms that county election commissions have no statutory authority to conduct municipal elections and that municipal election commissioners are required by to perform the duties charged to their offices.

It should be noted that administrative bodies, such as county election commissions, derive their authority solely from the constitutional and statutory provisions establishing them. These bodies possess only the powers as are expressly conferred upon them and as are necessarily implied from or incidental to their express powers. [Bostic v. City of West Columbia](#), 268 S.C. 386 (1977); [Piedmont and Northern Rv. v. Scott](#), 202 S.C. 207 (1943). It is clear that the circumstances posed in your question do not comport with this principle.

Based on the foregoing, it is the opinion of this Office that county election commissions have no authority to conduct municipal elections.

Sincerely,

James M. Holly
State Attorney

1980 WL 120592 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.