

1980 WL 121214 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 12, 1980

\*1 Anne C. Osborne  
Deputy County Attorney  
2 Courthouse Square  
Charleston, South Carolina

Dear Ms. Osborne:

In response to your letter of April 30, 1980, I think that you may be right about the Charleston County Substance Abuse Commission (Commission) being outside the purview of the Charleston County Council's appointment power provided for by [Section 4-9-170, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. Inasmuch as the Commission is authorized to levy a tax for its operation [58 STAT. Act No. 452, § 5(11) at 801 (1973)] and inasmuch as the taxing power is ordinarily one of the indicia of a 'political subdivision,' I think that the Commission might very well constitute a political subdivision and, consequently, be exempt from the provisions of [Section 4-9-170](#). The question is not one that can be answered with complete certainty, however, and for that reason I would suggest that a judicial determination is the only means by which to reach a definitive resolution of the question.

Regarding the exercise of the Charleston County Council's appointment power, I think that the safest way for it to take over the appointment of the members of various boards and commissions would be to appoint successors as the terms of board members expire. If it wants to replace immediately the members of the various boards, I think that it should by ordinance abolish the existing bodies as presently constituted and re-constitute them with membership appointed by it. The authority to abolish a statutorily-created office before the expiration of the term of the incumbent appears to be well-established. 63 AM.JUR.2d [Public Officers and Employees](#) §§ 33 and 34. Once that action is taken, the Charleston County Council would be free to prescribe different terms and a different number of members selected in a different way.

With kind regards,

Karen LeCraft Henderson  
Senior Assistant Attorney General

1980 WL 121214 (S.C.A.G.)

---

End of Document

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