

1980 S.C. Op. Atty. Gen. 134 (S.C.A.G.), 1980 S.C. Op. Atty. Gen. No. 80-85, 1980 WL 81967

Office of the Attorney General

State of South Carolina

Opinion No. 80-85

August 5, 1980

*1 Ms. Dorothy A. Manigault
Executive Assistant for Legal Affairs
Office of the Governor
Post Office Box 11450
Columbia, South Carolina 29211

Dear Ms. Manigault:

Your letter of July 30, 1980, inquires as follows:

'The Chairman of the Marion County Council has requested that the position of Master-In-Equity for Marion County not be filled, but rather that the duties be assumed by a Special Referee to be appointed in each instance by the Circuit Judge. I would appreciate an opinion regarding this request and have attached a copy of Mr. Gerald's correspondence to assist you.'

The supplements to the annual budget for Marion County recites in paragraph 5 thereof:

'That there is no appropriation made for the office of Master-in-Equity since it is anticipated the office will remain vacant. The duties of Master shall be performed by a Special Referee to be appointed by the Circuit Judge. The Special Referee's compensation shall be the fees authorized to be charged by statute.'

Act No. 164 of 1979 is a comprehensive review of the entire judicial system in this State and specifically provided with respect to the office of master-in-equity that:

'There is hereby established in each of the several counties of the State a master-in-equity court. —; provided, however, nothing herein shall prohibit any two or more counties from joining together to allow one master-in-equity to serve two or more counties, if such action is approved by the General Assembly.'

Other provisions of Act No. 164 provide that should any vacancy exists in the office of master for any reason, the judge of the circuit court may appoint a special referee in any case, who shall as to such case be clothed with all the powers of a master. The 1979 act modified the previously existing laws concerning masters-in-equity so as to eliminate the local laws with respect to this judicial office by substituting the general requirements referred to above. It thus contemplates that the position of master-in-equity exists in each county or that it be provided for by two or more counties jointly.

In view of the new statute, it is my opinion that a county cannot arbitrarily take the position that it will not fund the office of master-in-equity for that county but it must join with one or more other counties so as to make provision for servicing the needs of those counties by a master-in-equity. Subsequent approval of such procedure must be obtained from the General Assembly.

Very truly yours,

Daniel R. McLeod
Attorney General

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