

1977 WL 37281 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 25, 1977

*1 Robert C. Wilson, Jr., Esquire
Attorney at Law
P. O. Box 2048
Greenville, South Carolina 29602

Dear Mr. Wilson:

You have requested an opinion from this Office as to whether or not the Greenville County Legislative Delegation (Delegation) or the Greenville County Council (Council) has the authority to approve the appointment of those members of the Greenville General Hospital Board of Trustees (Board) who are 'county' members. In my opinion, the Delegation possesses the approval power.

The 1947 legislation which created the Board, Act No. 432 of that year, specified that it was to be 'an independent Board, free from the control of the corporate authorities of the City or the County . . . ' 45 STAT. 1145 at 1146 (1947). The Act also specified that the Board was to be composed of seven members, three of whom were designated 'City Members' (residing within the corporate limits of the City of Greenville), three of whom were designated 'County Members' (residing within the corporate limits of Greenville County but without the corporate limits of the City of Greenville) and the seventh member was designated a 'Member at Large' (residing within or without the corporate limits of the City of Greenville and within the corporate limits of the County of Greenville). After specifying the names of the original Board members, the Act then provided in part: . . . All vacancies shall be filled in the following manner: . . . if the vacancy in office shall be for a 'County Member,' the remaining members of the Board, or a majority thereof, shall submit a nomination or nominations to the Greenville County Legislative Delegation to the General Assembly for its approval; . . .

Although the 1947 legislation has been subsequently amended several times, no amendment to that Act has altered the method of filling the county members' positions. In 1967, however, Act No. 573 [55 STAT. 1084 (1967)] created the Greenville County Council and devolved upon it 'all functions related to the recommendation or appointment of boards or commissions as were formerly vested in the Greenville County Legislative Delegation.' My understanding is that the Greenville County Council has appointed the county members since then.

The Greenville County Council which was created by the 1967 legislation has been replaced, however, by the present Council established pursuant to the provisions of Act No. 283 of 1975, the 'home rule' legislation. The present Council possesses those powers which Act No. 283 prescribes for it, *i.e.*, those powers prescribed by Sections 14-3703 through 14-3718 and Sections 14-3740 through 14-3746, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.) as well as those prescribed by other general laws. *See, e.g.*, 58 STAT. 2018 (1974). In my opinion, the devolution of the recommendation and appointment powers upon the Greenville County Council created by Act No. 573 of 1967 has not been similarly conferred upon the present Council, either expressly or impliedly, by the provisions of Act No. 283 of 1975. In fact, Section 14-3714 of the Code (Cum. Supp.) provides in part:

*2 . . . Each council shall have such appointive powers with regard to existing boards and commissions as may be authorized by the General Assembly . . . , but this authority shall not extend to school districts, special purpose districts or other political subdivisions created by the General Assembly; . . . [Emphasis added.]

Pursuant to this provision, various county councils have been statutorily vested with the recommendation and appointment powers formerly possessed by their respective legislative delegations. See, e.g., 59 STAT. 23 (1975); 59 STAT. 2187 (1976). Such legislation, however, has not been enacted with regard to Greenville County; and if such legislation were to alter the appointment of members of commissions of special purpose districts or other political subdivisions created by the General Assembly so as to place the recommendation or appointment power in a county council, it would not be authorized by the provisions of Section 14-3714 of the Code. Finally, the language of Section 14-3717 of the Code (Cum. Supp.) does not, in my opinion, carry forward the provisions of Act No. 573 of 1967 since the Greenville County Council created by that Act, along with the powers possessed by it, has been impliedly repealed by the 'home rule' legislation.

Therefore, the Delegation possesses the power to approve the appointment of the 'county' members of the Board pursuant to the provisions of Act No. 432 of 1947.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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