

1977 S.C. Op. Atty. Gen. 170 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-220, 1977 WL 24562

Office of the Attorney General

State of South Carolina

Opinion No. 77-220

July 13, 1977

***1 Re: Authority of South Carolina Board of Social Services to Employ General Counsel**

Honorable Robert E. Kneece
Chairman
South Carolina Board of
Social Services
1338 Pickens Street
Columbia, South Carolina 29201

Dear Mr. Kneece:

You have made inquiry as to what authority the South Carolina Board of Social Services has to employ General Counsel for the Department of Social Services.

§ 43-1-70, Code of Laws of South Carolina (1976) provides in part:

‘Subject to standards adopted by the State Department, the State Commissioner may appoint and employ, with the approval of the Board, such other officers and employees as are authorized and may be necessary to perform the duties placed upon the Department by law, and the Board shall fix their compensation unless the General Assembly shall do so, but in no event shall the Board expend any sums for purposes unauthorized by law. . . . The selection of such officers and employees shall be made entirely upon the qualification and merit of the individuals so employed.’ (Emphasis added).

The only authority the Board has to directly employ an individual is that given under § 43-1-50, which grants to the Board the right to select the chief executive officer as the administrative head of the State Department, a State Commissioner of Social Services.

It seems clear from the provisions of § 43-1-70 that the employment of General Counsel for the State Department must receive approval of the Board. Additionally, a proviso in the appropriation to the Office of Attorney General as contained in the 1977-78 General Appropriations Act, Act No. ____ of 1977, provides:

‘That no department or agency of the State Government shall hire any attorney as an employee to be engaged in legal work except upon the written approval of the Attorney General and at a compensation approved by him. All such attorneys shall at all times be under the supervision and control of the Attorney General.’ (Emphasis added).

In addition to the cited proviso, § 1-7-80, Code of Laws of South Carolina (1976) provides in part:

‘The appropriation for the Attorney General for the expenses of litigation shall be subject to the following conditions: The Attorney General shall conduct all litigation which may be necessary for any department of the State Government or any of the boards connected therewith, and all such boards or departments are hereby forbidden to employ any counsel for any purpose except through the Attorney General and upon his advice. . . .’ (Emphasis added).

In the opinion of this Office the South Carolina Board of Social Services has no authority to directly employ General Counsel. The employment of General Counsel is vested in the State Commissioner, subject, however, to approval by the Board and the Attorney General.

Very truly yours,

Raymond G. Halford
Senior Assistant Attorney General

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