

1977 WL 37426 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 16, 1977

\*1 The Honorable John T. Wood  
Member  
House of Representative  
District No. 17  
Greenville County  
Tigerville, South Carolina 29688

Dear John:

Thank you for your letter of September 4. I appreciate it very much.

The Hospital District about which you asked is apparently the Upper Greenville County Hospital District which was created by an act approved in 1967. It created a commission to consist of three electors of the district 'to be appointed by the Governor upon the recommendation of a majority of the Greenville County District.' The commission was authorized to use bond proceeds to establish hospital facilities in the district of a site to be agreed upon by the commission and the board of trustees. The hospital was to be owned by the board of trustees of the Greenville General Hospital and those trustees were to operate the hospital after its establishment. The hospital is a part of the Greenville General Hospital facilities of Greenville County under the operation and control of the board of trustees of the Greenville General Hospital.

After construction of the hospital, the local commission had no further duties except to make reports and recommendations to the Greenville Legislative Delegation. It thus became, as you note in your letter, an advisory board.

The Greenville County Council was created by 1967 legislation which devolved on that board overall functions related to the recommendation or appointment of boards or commissions as were formerly vested in the Greenville County Legislative Delegation. It is my understanding that appointments to the board have been made under this act by the Greenville County Council.

The Home Rule Act of 1975 provided that '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.'

This Office has expressed the view that the Home Rule Act superseded the previous authority granted to the County Council, and by its terms did not extend appointive powers to special purpose districts. The County Attorney for Greenville, Mr. Joe Earle, however, views the matter differently. The area is clearly a hazy legal zone and an arguable position can be taken in support of either side. The only clear answer to be given to this difference of opinions is by court adjudication. In the absence of such a court decision, no answer can be given with complete assurance as to its correctness.

I will look into the matter of the Stroud Memorial Hospital at Marietta which, I understand, is a nursing home at present and will advise you when the legal status of this organization has been ascertained. In the meantime, I am sending to you a copy of an opinion of this Office which relates to the Greenville General Hospital but which expresses my views with regard to the Upper Greenville County Hospital District.

\*2 With best wishes,

Very truly yours,

Daniel R. McLeod  
Attorney General

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