

1976 WL 30670 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 17, 1976

\*1 Honorable Charles L. Powell  
Member  
House of Representatives  
Route 2  
Abbeville, South Carolina 29620

Dear Representative Powell:

You have requested an opinion from this Office as to whether the Abbeville County Board of Commissioners presently has appointive or recommendatory powers with regard to the Abbeville County Board of Voter Registration, the Abbeville County Election Commission and the Abbeville County Board of Social Services.

The appointment of members to each of these boards is provided by general law, to wit:

- 1) Board of Voter Registration—§ 23-51, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (appointed by the Governor with the advice and consent of the Senate);
- 2) Election Commission—§ 23-400, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (appointed by the Governor upon the recommendation of the Senator and at least one-half of the House members from the respective county);
- 3) Board of Social Services—§ 71-31, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (appointed by the Governor upon the recommendation of a majority of the county legislative delegation, including the Senator.)

In Abbeville County, however, the authority to make recommendations to the Governor for each of these three boards was delegated to the Board of Commissioners by Act No. 32 of 1973. 58 STAT. 28 (1973). Section 4 of Act No. 32 provides: Any appointments in Abbeville County to be made by the Governor upon the recommendation of the Senate shall henceforth be made upon the recommendation of a majority of the board, except as provided in the Constitution of this State, and any such appointments now made upon the recommendation of a majority of the Abbeville County Legislative Delegation shall henceforth be made upon the recommendation of a majority of the board.

The Board of Commissioners, therefore, presently has the recommendatory powers as to the three boards in question.

After Act No. 283 of 1975, the 'home rule' legislation, becomes operative, however, this power will no longer repose in the Board of Commissioners since Section 14-3714 of Act No. 283 provides:

... [e]ach council shall have such appointive powers with regard to existing boards and commissions as may be authorized by the General Assembly except as otherwise provided for by the general law and the Constitution, ... [Emphasis added.]

The language hereinabove underlined indicates to me that, under 'home rule,' each county council will have only those appointive powers delegated to it by the General Assembly which are not otherwise provided for by general law. Inasmuch as the appointment to the three boards in question is provided for by general law, [ §§ 23-51, 23-400 and 71-31, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended], the opinion of this Office is that the present authority of the Abbeville

County Board of Commissioners to make recommendations to the Governor as to the membership of that County's Board of Voter Registration, Election Commission and Board of Social Services will not continue under Act No. 283 of 1975, Cf., 59 STAT. 23 (1975) (authorizing the devolution of all appointive and recommendatory powers theretofore vested in the county legislative delegation and not otherwise provided by general law or the Constitution upon the Florence County Council.

With kind regards,

\*2 Karen LeCraft Henderson  
Assistant Attorney General

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