

1976 S.C. Op. Atty. Gen. 42 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4245, 1976 WL 22865

Office of the Attorney General

State of South Carolina

Opinion No. 4245

February 5, 1976

*1 The Beaufort County legislative delegation must still appoint members to the board of trustees of the Beaufort County Library.

TO: Estellene P. Walker
Librarian
The South Carolina State Library

QUESTION PRESENTED:

With the enactment of Act No. 283 of 1975, the 'home rule' legislation, does the Beaufort County Council or the Beaufort County legislative delegation have the authority to appoint members to the board of trustees of the Beaufort County Library?

CITATION OF AUTHORITIES:

Act No. 283 of 1975;

Sections 42–317.22, South Carolina Code of Laws (1962);

Attorney General's Opinion, dated July 29, 1975.

DISCUSSION:

In regard to the appointive powers of the County Council for existing boards and commissions, Section 14–3714 of Act No. 283, the 'home rule' legislation, provides as follows:

Each council shall have 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 or other political subdivisions created by the General Assembly, provided, however, that beginning January 1, 1980, the council shall provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by the general law or the Constitution . . . (Emphasis added).

Applying the provisions of Section 14–3714 to the instant case, two questions necessarily arise: (1) Are the members of board of trustees appointed by general law; and (2) has the General Assembly authorized the Beaufort County Council to exercise its appointive powers prior to January 1, 1980? Both of these questions must be answered in the negative.

The Beaufort County Library Board is an existing county Board whose members are not appointed pursuant to general law or the Constitution. See, Section 42–317.22, South Carolina Code of Law (1962). However, at this time it does not appear that the General Assembly has authorized the Beaufort County Council to exercise appointive powers. Beginning January 1, 1980, the county council may by ordinance provide for the appointment of the board members without the need for additional enabling legislation. See, generally, Attorney General Opinion, dated July 29, 1975 (General Assembly authorized the Florence County

Council to exercise its appointive powers in Act No. 27 of 1975; thus, county council can appoint members to the Florence County Library Board.)

CONCLUSION:

Until the Legislature passes an enabling act for the Beaufort County Council to have appointive powers, or until January 1, 1980, the Beaufort County Library board of trustees will be appointed by the Beaufort County Legislative delegation.

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