

1979 WL 43448 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 5, 1979

*1 W. E. Jenkinson, III, Esquire
Williamsburg County Attorney
Post Office Drawer 669
Kingstree, South Carolina 29556

Dear Mr. Jenkinson:

You have requested an opinion from this Office as to the present appointive and recommendatory powers of the Williamsburg County Legislative Delegation (Delegation) and the Williamsburg County Council (Council) relating to the members of the boards and commissions hereinbelow discussed.

As you know, [Section 4-9-170, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, provides in part that, beginning January 1, 1980, each county council shall, without the necessity of further enabling legislation by the General Assembly, provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by general law or by the Constitution; this appointive power, however, does not extend to school districts, special purpose districts or other political subdivisions created by the General Assembly. Until that date:

Each council shall have such appointive powers with regard to existing boards and commissions as may be authorized by the General Assembly . . .

Applying the provisions of [Section 4-9-170](#) as hereinabove outlined to the specific boards and commissions which you have inquired about, my opinion is as follows:

1. With respect to the Williamsburg County Election Commission, the Williamsburg County Board of Voter Registration, the Williamsburg County Forestry Board, the Williamsburg County Social Services Board, the Williamsburg County Board of Education, the Williamsburg County Mental Retardation Commission and the Williamsburg County Mental Health Board, the Council does not presently have appointive powers and will not have appointive powers beginning January 1, 1980, as to their respective members for the reason that all of these boards' members are appointed pursuant to general law, *i.e.*, the statutory method of appointment is the same throughout the State. *See, e.g.*, [§ 7-13-70, CODE OF LAWS OF SOUTH CAROLINA](#), 1976 (election commission); [§ 7-5-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976 (board of voter registration); [§ 48-35-50, CODE OF LAWS OF SOUTH CAROLINA](#), 1976 (forestry board); [§ 43-3-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended by Act No. 384 of 1977 [STAT. 1021 (1977)] (social services board); [§ 59-15-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976 (board of education); [§ 44-21-830, CODE OF LAWS OF SOUTH CAROLINA](#), 1976 (mental retardation commission); [§ 44-15-60, CODE OF LAWS OF SOUTH CAROLINA](#), 1976 (mental health board).

2. With respect to the Williamsburg County Commission on Alcohol and Drug Abuse, the Williamsburg County Aeronautics Commission, the Williamsburg County Development Board, the Williamsburg Technical, Vocational and Adult Education Center Commission (formerly the Williamsburg Regional Manpower Center Commission [59 STAT. 2 (1975)]), the Williamsburg County Tax Reassessment Board, the Williamsburg County Tax Board of Appeals and the Williamsburg County Medical Health Center Commission, beginning January 1, 1980, the Council may provide by ordinance for the appointment of their respective members because their appointments are now provided for by special, not general, laws. *See, e.g.*, 58 STAT. 1589 (1973) (commission on alcohol and drug abuse); 54 STAT. 254 (1965)

(aeronautics commission); § 14-400.561, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended by Act No. 24 of 1969 [56 STAT. 22 (1969)] (development board); 56 STAT. 58 (1969), as last amended by Act No. 380 of 1977 [57 STAT. 1018 (1977)] (technical, vocational and adult education center commission); § 65-1890, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended by Act No. 491 of 1969 [56 STAT. 851 (1969)] (tax reassessment board); § 65-1890.1, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended by Act No. 491 of 1969 [56 STAT. 851 (1969)] (tax board of appeals); 58 STAT. 1586 (1973) (medical health center commission). Until January 1, 1980, the members of these boards are to be appointed pursuant to their respective special laws.

*2 3. As to the Williamsburg County Recreation Commission, the Council will not be authorized to provide for the appointment of its members after January 1, 1980, because this Commission is the governing body of a special purpose district [57 STAT. 191 (1971) as amended by Act No. 381 of 1977] and the Council's authority does not extend to special purpose districts. The members are to continue to be appointed upon the recommendation of the resident members of the Delegation.

4. As to the Williamsburg County Hospital Board of Trustees, assuming that the hospital was established pursuant to the provisions of Article 5, Chapter 7 of Title 44 of the 1976 Code of Laws of South Carolina, the Council will not be authorized to provide for the appointment of its members after January 1, 1980, because their appointment is now provided for by general law. See, § 44-7-670, CODE OF LAWS OF SOUTH CAROLINA, 1976. The members are to continue to be appointed by the Delegation.

5. As to the Williamsburg County Library Board and the Williamsburg County Planning Commission, the Williamsburg County governing body presently recommends their respective members for appointment and, consequently, will continue to do so after January 1, 1980. See, e.g., § 4-9-35(B), CODE OF LAWS OF SOUTH CAROLINA, 1976 (library board); 57 STAT. 3985 (1972) (planning commission).

6. As to the Swamp Fox Country Tourism Commission and the Waccamaw Regional Council of Governments, the Council will not be authorized to provide for the appointment of their respective members after January 1, 1980, because they are not Williamsburg County boards of commissions but, instead, are multi-county or regional governing bodies. See, e.g., § 51-13-610, CODE OF LAWS OF SOUTH CAROLINA, 1976 (tourism commission); §§ 6-7-110, et seq., CODE OF LAWS OF SOUTH CAROLINA, 1976 (regional council of governments). The Williamsburg County members of the Tourism Commission are to continue to be appointed upon the recommendation of the Delegation. The Williamsburg County members of the Regional Council of Governments are to continue to be appointed as prescribed in the agreement establishing the Council pursuant to Section 6-7-130, CODE OF LAWS OF SOUTH CAROLINA, 1976.

7. As to the Williamsburg County Tax Collector, he is presently to be appointed by a majority of the Delegation pursuant to Section 1 of Act No. 240 of 1947 [45 STAT. 482 (1947)]. After January 1, 1980, the Council will be authorized to change the method of appointment because it is provided for by special law.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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