

1978 WL 34706 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 15, 1978

*1 Furman R. Gressette, Esquire
Attorney at Law
119 South Railroad Avenue
St. Matthews, South Carolina 29135

Dear Mr. Gressette:

You have requested an opinion from this Office as to what authority, if any, the Calhoun County Council (Council) can exercise with respect to the employees of the Calhoun County Historical Commission (Commission). In my opinion, the Council can regulate those employees in the areas of work hours, holidays, annual and sick leave, inter alia, pursuant to the provisions of [Section 4-9-30\(7\), CODE OF LAWS OF SOUTH CAROLINA](#), 1976.

[Section 4-9-30\(7\) of the 1976 Code](#) empowers all county councils:

To develop personnel policies and procedures for county employees by which all county employees are regulated except those elected directly by the people, . . . [Emphasis added.]

Since the creation of the Commission in 1952 [47 STAT. 1911 (1952)], its activities and personnel have been paid by general county funds [see, e.g., 47 STAT. 2362 (1952)] and, consequently, its employees are county employees. Since they are county employees, they are now to be regulated by the Council, at least with respect to personnel policies and procedures. I think that the areas which you have specifically inquired about, i.e., work hours, holidays and annual and sick leave, are included within the purview of 'personnel policies and procedures.' In connection with your request, however, a question might arise as to the exercise of the power granted to the Commission by the 1952 legislation to 'make rules for its own government.' 47 STAT. at 1911. While it is true that the provisions of Act No. 283 of 1975, the 'home rule' legislation, prohibit a county council from enacting an ordinance in conflict with an act relating to that county until at least January 1, 1980, and, therefore, the Council could not pass an ordinance changing the statutory method of appointing the Commission members or vesting the power to hire a Commission director in itself rather than in the Commission where it is presently vested by statute, the Council's general power to adopt personnel policies and procedures has most probably impliedly repealed the Commission's authority to make rules for its own government, at least to the extent that the exercise of those two powers conflicts. The Commission's power, in my opinion, would still be able to be exercised in matters such as the conduct of its meetings or the procedure for taking Commission action.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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