

1978 S.C. Op. Atty. Gen. 201 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-176, 1978 WL 22644

Office of the Attorney General

State of South Carolina

Opinion No. 78-176

OCTOBER 23, 1978

**\*1 SUBJECTS: Administrative Procedure, Rules and Regulations, Statutes**

By the terms of the Administrative Procedures Act, the General Assembly may only approve or disapprove agency regulations submitted for review.

TO: M. Inez Moore

Director of Research and Administration

Medical, Military, Public and Municipal Affairs Committee

House of Representatives

QUESTION:

When agency regulations are submitted to the General Assembly for review, may the General Assembly alter or amend the regulations and approve them as altered or amended, or may the General Assembly only approve or disapprove the regulations as they are submitted?

STATUTES AND CASES:

[§ 1-23-120, Code of Laws of South Carolina \(1976\).](#)

[Hughes v. Edwards](#), 265 S.C. 529, 220 S.E.2d 231 (1975).

[Independence Ins. Co. v. Independent Life and Accident Ins. Co.](#), 218 S.C. 22, 61 S.E.2d 399 (1950).

[Lewis v. Gaddy](#), 254 S.C. 66, 173 S.E.2d 376 (1970).

[McGlohon v. Harlan](#), 254 S.C. 207, 174 S.E.2d 753 (1970).

[McMillen Feed Mills, Inc. of South Carolina v. Mayer](#), 265 S.C. 500, 220 S.E.2d 221 (1975).

[Sibbach v. Wilson & Co.](#), 312 U.S. 1, 85 L.Ed. 479, 61 S.Ct. 422 (1940).

[Stewart v. Yellowtail](#), 35 F. Supp. 798 (D.Mont. 1940).

DISCUSSION:

You have asked whether, under the Administrative Procedures Act, the General Assembly may alter or amend agency regulations submitted for review and approve them in their amended form, or whether the General Assembly may only approve or disapprove such regulations as they are submitted. It is the opinion of this Office that the General Assembly may only approve or disapprove regulations as submitted by an agency for review.

The Administrative Procedures Act requires that agency regulations must be reviewed and approved by the General Assembly before they have the force of law. This requirement is found in [§ 1-23-120 of the 1976 Code](#), which provides in part as follows:

The General Assembly shall have a period of ninety days to review any regulations promulgated by any agency. To initiate the process of review, the agency shall file with the President of the Senate and the Speaker of the House of Representatives a copy of any regulations promulgated along with a request for review. Upon receipt of the request, the President and Speaker reviewing such request shall submit it for consideration to the standing committees of the Senate and House which are most concerned with the function of the promulgating agency. The ninety-day period of review shall begin on the date the regulation is filed with the President and Speaker. Sine Die adjournment of the General Assembly shall toll the running of the period of review and the remainder of such period shall begin to run upon the next convening of the General Assembly excluding special sessions called by the Governor. A regulation shall not be effective until ninety days after it has been submitted unless a joint resolution approving the regulation is adopted by the General Assembly prior to the expiration of the ninety-day period; provided, however, if the General Assembly by a joint resolution disapproves a regulation within the ninety-day period it shall not take effect . . .

**\*2** The foregoing statute sets forth the duties of the General Assembly in the established process by which agency regulations become law. The plain and unambiguous language of the statute only indicates that the General Assembly may approve or disapprove regulations. Moreover, well established rules of statutory construction reinforce that position.

The principal rule of statutory construction is to ascertain and give effect to the intention of the legislature. [McGlohon v. Harlan](#), 254 S.C. 207, 174 S.E.2d 753 (1970). Such intention must be given effect if it can be reasonably discovered from the language used in the statute, and such language must be construed in light of the intended purpose of the statute. [McMillen Feed Mills, Inc. of South Carolina v. Mayer](#), 265 S.C. 500, 220 S.E.2d 221 (1975); [Lewis v. Gaddy](#), 254 S.C. 66, 173 S.E.2d 376 (1970). If the intention of the legislature can be discovered from the words used in a statute, the court cannot add to them other words which would give them a different meaning. [Independence Inc. Co. v. Independent Life & Accident Inc. Co.](#), 218 S.C. 22, 61 S.E.2d 399 (1950). Finally, the words in a statute should be taken in their ordinary and popular meaning unless something in the statute requires a different interpretation. [Hughes v. Edwards](#), 265 S.C. 529, 220 S.E.2d 231 (1975).

Applying the foregoing principles, it seems clear that the General Assembly only intended that it would review and approve or disapprove regulations submitted to it. [Section 1-23-120](#) requires that the General Assembly should have ninety days to review regulations submitted by agencies. During this ninety-day period, the General Assembly can elect to affirmatively take action on the regulations, or it can elect to take no action. If the General Assembly elects to take no action, the regulations become effective after expiration of the ninety-day review period. If the General Assembly elects to take affirmative action on the regulations, the language of the statute plainly speaks only in terms of approval by joint resolution and disapproval by joint resolution. Nowhere is it stated that the General Assembly shall alter or amend regulations it finds unacceptable. Moreover, there seems to be no reason in the wording of the statute for taking the words ‘approve’ and ‘disapprove’ in anything but their ordinary and popular significance. ‘To ‘approve’ is in its essential and most obvious meaning to confirm, ratify, sanction or consent to some act or thing done by another.’ [Stewart v. Yellowtail](#), 35 F.Supp. 798, 799 (D. Mont. 1940). Conversely, ‘disapprove’ means to reject or to refuse to confirm or ratify the act of another. [Stewart](#), *supra*. As the commonly understood meanings of ‘approve’ and ‘disapprove’ do not embrace amendment or modification of acts done by others, and there is nothing in the statute to suggest that these words should be understood in anything but their ordinary meanings, it is the opinion of this Office that the words ‘approve’ and ‘disapprove’, as used in [§ 1-23-120](#), would not include the amendment, alteration or modification of regulations promulgated by state agencies.

\*3 The foregoing construction of the words ‘approve’ and ‘disapprove’ seems proper in light of the intended purpose of § 1–23–120. McMillen Feed Mills, Inc., *supra*. The reservation by the legislature of the power to examine administrative rules is primarily to afford the legislature the opportunity to satisfy itself that administrative rules square with overall legislative objectives. Sibbach v. Wilson & Co., 312 U.S. 1, 85 L.Ed. 479, 61 S.Ct. 422 (1940). Thus, under § 1–23–120, the duty of the General Assembly is to make a determination as to whether or not agency regulations submitted for review square with overall legislative objectives. Once that determination is made, the purpose of the statute has been accomplished. There is nothing in the statute to indicate that the General Assembly is to do anything but make its determination and signify that determination by approval or disapproval.

CONCLUSION:

It is therefore the opinion of this Office that, under the terms of the Administrative Procedures Act, the General Assembly may only approve or disapprove regulations submitted to it for review.

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State Attorney

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