

1978 WL 35185 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 25, 1978

*1 Honorable L. Marion Gressette
Senator
Post Office Box 346
St. Matthews, South Carolina 29135

Dear Senator Gressette:

You have requested an opinion from this Office as to whether or not the Calhoun County Historical Commission (Commission) is authorized to prescribe the duties of its director as far as the setting of the hours of the historical museum is concerned and whether or not the Commission is authorized to set his salary. In my opinion, the Commission is so authorized pursuant to the following provisions of Act No. 124 of 1971 [57 STAT. 99 (1971)]:
Section 14-1123. The Historical Commission shall have the following powers and duties:

(7) To employ a director, who shall serve at the pleasure of the Commission, receive such remuneration as the Commission may determine, and perform such duties as the Commission may direct; and . . .

Clearly, the Commission is to set the director's salary by virtue of the above-quoted language; and, in my opinion, the Commission's authority to direct the duties of its director empowers it to instruct him as to the hours during which he is to keep the historical museum open. Act No. 124 of 1971 survives the passage of Act No. 283 of 1975, the 'home rule' legislation, at least until January 1, 1980, by virtue of Section 3 of the latter Act which provides:

All operations, agencies and offices of county government, appropriations and laws related thereto in effect on the date the change in form becomes effective shall remain in full force and effect until otherwise implemented by ordinance of the council pursuant to this act. Provided, however, that county councils shall not enact ordinances in conflict with existing law relating to their respective counties and all such laws shall remain in full force and effect until repealed by the General Assembly, or until January 1, 1980, whichever time is sooner, . . .

In response to your additional inquiry as to whether or not the Commission is authorized to hire and fire its director, my opinion is that it is so authorized pursuant to Section 14-1123(7) of the 1962 Code of Laws of South Carolina, as amended, which expressly provides that the Commission is to employ a director 'who shall serve at the pleasure of the Commission.' As far as Commission employees other than the director are concerned, assuming that the Commission has the authority under Section 14-1123(7) of the 1962 Code to hire additional employees, those employees likewise are to be hired and fired by it. The Calhoun County Council is prohibited, at least until January 1, 1980, from hiring and firing them by virtue of the following language of the home rule legislation:

. . . this authority [to employ and discharge county personnel] shall not extend to any personnel employed by . . . agencies under the direction of . . . an official appointed by an authority outside county government . . . [§ 4-9-30\(7\), CODE OF LAWS OF SOUTH CAROLINA, 1976.](#)

*2 In this case, the Commission members are appointed by the Governor, an authority outside county government.
47 STAT. 1911 (1952).

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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