

1975 S.C. Op. Atty. Gen. 91 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4019, 1975 WL 22316

Office of the Attorney General

State of South Carolina

Opinion No. 4019

April 15, 1975

*1 Representative Irene K. Rudnick

State House

Columbia, South Carolina

Dear Representative Rudnick:

You have requested an opinion as to the legality of the closing of the Aiken County Hospital by the Aiken County Board of Commissioners.

The Aiken County Hospital was created in 1934 pursuant to Act No. 980 of the South Carolina General Assembly. See, 38 STAT. 1718 (1934). In 1937, the General Assembly provided for a Board of Trustees of the Aiken County Hospital who, inter alia:

. . . shall take charge and control of said hospital, and direct the management, operation and supervision thereof, . . . 40 STAT. 352 at 352–353 (1937).

Thus, it is clear that the intent of the legislature was to vest the Board of Trustees with the control of the Aiken County Hospital to the exclusion of the Aiken County Board of Commissioners. While a previous opinion stated that, in the absence of express legislation, the Board of Commissioners had no decision-making authority regarding the operation and control of the Aiken County Hospital, that opinion did not consider the effect of the 1972 legislation delineating the powers and duties of the Board of Commissioners. See, Letter to Senator Michael Laughlin from Assistant Attorney General A. Camden Lewis, dated October 11, 1973. Listed among the powers of the Aiken County Board of Commissioners in that 1972 legislation is the following:

(14) . . . to alter, transfer or abolish the duties and functions of existing offices, agencies or departments; . . . 57 STAT. Act No. 1078, § 9(14) at 2253 (1972).

That the Board of Trustees is a county agency is evidenced from the fact that its duties are performed wholly within the county and for the people of the county (see, [Reed v. Hammond](#), 123 P. 346, 18 Cal.App. 442) and from the fact that appropriations for the Hospital were formerly provided for in the annual county supply act [see, e.g., 57 STAT. Act No. 1686, § 1 (Item 21) at 3289 (1972)] and are now appropriated by the Board of Commissioners. See, 57 STAT. Act No. 1078 § 9(5) at 2251 (1972).

Our opinion is, therefore, that the Board of Commissioners would have the authority to alter the functions of the Hospital Board of Trustees in such a way as to transfer the management and control of the Hospital to itself and, thus, to approve the closing of the Hospital. Cf., [Waterloo School District No. 14 v. Cross Hill School District](#), 106 S.C. 292, 91 S.E. 257; 1966–67 Ops.Atty.Gen., No. 2342 at 173.

With kind regards,

Karen LeCraft Henderson

Assistant Attorney General

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