

1975 WL 29036 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 29, 1975

*1 The Florence County Council will not have appointive powers, even after January 1, 1980, as to the Florence County Board of Voter Registration, the Florence County Election Commission and the Florence County Board of Social Services since all of these boards' members are appointed pursuant to general law. The Florence County Council may exercise such appointive power as to the members of the Florence County Library Board as the General Assembly may hereafter authorize, so long as that power does not conflict with general law or the Constitution, since that Commission and that Board are already existing and their members are not appointed pursuant to general law or the Constitution; beginning January 1, 1980, moreover, the Florence County Council may by ordinance provide for the appointment of their members without additional enabling legislation. With reference to the Florence City-County Airport Commission, the Florence City-County Historical Commission and the Area Committee for the Florence-Darlington Counties Technical Education Center, the Florence County Council probably will not have appointive powers as to all of the members thereof, even after January 1, 1980, because those Commissions and that Committee are not solely Florence County bodies but are also composed of members representing the City of Florence and Darlington County, respectively, as well.

The Honorable Thomas E. Smith, Jr.

Senator

Florence, Marion, Horry and Williamsburg Counties

QUESTION PRESENTED:

What are the appointive powers of the Florence County Council, as provided in Act No. 283 of 1975, the 'home rule' legislation, concerning the Florence County Board of Voter Registration, the Florence County Election Commission, the Florence County Board of Social Services, the Florence County Library Board, the Florence City-County Airport Commission, the Florence City-County Historical Commission and the Area Committee for the Florence-Darlington Counties Technical Education Center?

STATUTES, CASES, ETC., INVOLVED

Act No. 283 of 1975.

§§ 23-51, 23-51.4, 71-31, 42-397, 21-708, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended.

54 STAT. Act No. 971 Part I, Art. 1, subdivision 10 at 2343 (1966).

55 STAT. Act No. 1336 at 3120; Act No. 1338 at 3121 (1968).

57 STAT. Act No. 1203 at 2382 (1972).

58 STAT. Act No. 426 at 762; Act No. 482 at 836 (1973).

58 STAT. Act No. 1239 at 2877 (1974).

DISCUSSION OF ISSUES

Section 14-3714 of Act No. 283, the 'home rule' legislation, begins by authorizing county councils to provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by general law or the Constitution. As to existing boards and commissions, each county council shall have appointive powers to the extent the General Assembly shall so authorize but such authority cannot alter appointments made pursuant to general law or the Constitution and such authority does not extend to school districts, special purpose districts or other political subdivisions created by the General Assembly. Beginning January 1, 1980, each county council shall, without the necessity of further enabling legislation, provide by ordinance for the appointment of all county boards, committees and commissions whose appointment is not provided for by general law or the Constitution; this appointive power, however, shall not extend to school districts, special purpose districts or other political subdivisions created by the General Assembly.

***2** Applying the provisions of Section 14-3714 as hereinabove outlined to the specific boards and commissions you have named, we are of the opinion that the county council will not have appointive powers, even after January 1, 1980 vis a vis the Florence County Board of Voter Registration, the Florence County Election Commission and the Florence County Board of Social Services for the reason that all of these boards' members are appointed pursuant to general law. See, e.g., §§ 23-51, 23-51.4 CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, (Cum. Supp.) (board of voter registration); 54 STAT. Act No. 971 Part I, Art. 1, subdivision 10 at 2343 (1966) and 55 STAT. Act No. 1336 at 3120 (1968) (election commission); § 71-31, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.) and 55 STAT. Act No. 1338 at 3121 (1968) and 57 STAT. Act No. 1203 at 2382 (1972) (board of social services).

As to the Florence County Library Board, this is an existing county board whose members are not appointed pursuant to general law or the Constitution [§§ 42-397 et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.)]; therefore, the county council may exercise such appointive powers as to their members as the General Assembly may hereafter authorize so long as that power does not conflict with general law of the Constitution. Beginning January 1, 1980, moreover, the county council may by ordinance provide for the appointment of their members without the need for additional enabling legislation. As to the procedure to be used in providing for their appointment by ordinance, Section 14-3709 prescribes the method by which the county council shall enact ordinances.

With reference to the Florence City-County Airport Commission and the Florence City-County Historical Commission, the county council probably will not have appointive powers as to all of the members thereof, even after January 1, 1980 because those Commissions are not solely county commissions but are also composed of members representing the City of Florence as well. See, 58 STAT. Act No. 482 at 836 (1973); 58 STAT. Act No. 1239 at 2877 (1974); 58 STAT. Act No. 426 at 762 (1973). Likewise as to the Area Committee for Florence-Darlington Counties Technical Education Center, the county council probably will not have appointive powers as to all of the members thereof, even after January 1, 1980 because that Committee is not solely a Florence County committee but is also composed of members representing Darlington County as well. See, §§ 21-708, et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.).

CONCLUSION

The opinion of this office is, therefore, as set forth in the syllabus herein.

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