

1975 S.C. Op. Atty. Gen. 177 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4098, 1975 WL 22394

Office of the Attorney General

State of South Carolina

Opinion No. 4098

August 27, 1975

*1 Legal advertisements must be published at the rate provided by statute or posted as provided by statute when advertisements are not acceptable at the statutory rate.

TO: Paul H. Infinger
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QUESTIONS PRESENTED

Where newspapers refuse to accept legal advertising at the statutory rate, can notice be posted at three public places in the county, or can a state agency pay more for the advertisements than the statute allows?

STATUTES, CASES, ETC.

Code of Laws of South Carolina, 1962, as amended, Sections 10–1308, 10–1310, 10–1311, 10–1311.01, 10–1311.02, 10–1311.1, 10–1311.2, 10–1311.3, 10–1311.4.

DISCUSSION OF ISSUES

Code of Laws of South Carolina, 1962, provides that legal advertisements required by law shall be accepted for publication by a newspaper at a fixed charge and not more. Recently some newspapers have increased this rate to the standard commercial rate and have refused to accept legal advertisements at the statutory rate. The question in its simplest form is whether a state agency can pay the higher commercial rate or whether it may publish notices through an alternative method.

Code Section 10–1308 provides in part:

. . . The publication of any of the notice herein mentioned may be let by contract for not more than the prices herein mentioned.

Code Section 10–1310 provides as follows:

If the proprietors or managers of the newspapers in any county shall refuse to insert such advertisements in their newspapers at the rates allowed in § 10–1308 such notices shall be posted in at least three public places in the county, one of which shall be at the courthouse door.

These sections read together give the clear impression that legal notices are only to be published at the statutory rate; in the event this is not possible they are to be posted in the designated places.

Attention should be given to §§ 10–1311, 10–1312, and 10–1311.01, et seq. These sections set up eight counties in which a different rate shall apply, including the current commercial rate charged to the general public.

CONCLUSION

The clear language of the statutes provides that in all counties, other than those excepted, advertising shall be published at the statutory rate set up in § 10–1308. If unacceptable by any newspaper in the county at this rate, advertisements may be posted as provided in § 10–1309.

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