

1975 WL 29188 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 20, 1975

*1 Representative John C. Land, III
P. O. Drawer G
Manning, South Carolina 29102

Dear Representative Land:

You have requested an opinion from this Office as to the continuing validity of the office of Clarendon County Supervisor in light of Part 3, Section 3 of Act No. 370 of 1975 [59 STAT. Act No. 370 at 974 (1975)] which provides in part as follows: All the powers and duties of the supervisor in Clarendon County are hereby transferred to the County Board of Commissioners. The Commission is authorized to employ a supervisor to carry out such duties as may be prescribed by the Commission.

This section shall take effect November 1, 1974.

Although the above cited provision appears in the Clarendon County Supply Bill, which, as you aware, is temporary legislation, it nonetheless is part of the permanent provisions thereof, as the heading of Part 3 indicates. The South Carolina Supreme Court has upheld in the past the incorporation of permanent legislation in an annual appropriations act.

See, e.g., [DeLoach v. Scheper](#), 188 S.C. 21, 198 S.E. 409 (1938); [Doran v. Robertson](#), 203 S.C. 434, 27 S.E.2d 714 (1943); [State v. Connally](#), 227 S.C. 507, 88 S.E.2d 591 (1955). The holding in [Mills v. McLeod](#), 256 S.C. 21, 180 S.E. 638 (1971), is clearly distinguishable inasmuch as the General Appropriations Act therein construed specifically provided that all acts inconsistent with that Appropriations Act were 'suspended for the fiscal year 1970-71' and, therefore, the Act itself did not grant any permanency, beyond that specified, to its provisions.

The conclusion of this Office is, therefore, that, the duties and powers of the Clarendon County Supervisor having been transferred to the Clarendon County Board of Commissioners as of November 1, 1974, by Act No. 370 of 1975, the office of Clarendon County Supervisor as established pursuant to Sections 14-251, et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended, no longer exists.

Finally, since Act No. 370 of 1975 has been enacted, this Office must presume the Act to be constitutional until and unless a court of law declares otherwise. If, however, an action were brought pursuant to the Uniform Declaratory Judgments Act [§§ 10-2001 et seq. of the Code], the Act would most probably be declared unconstitutional as violative of Article VIII, Section 7 of the State Constitution. See, e.g., [Booth v. Grissom](#), 265 S.C. 190, 217 S.E.2d 223 (Opinion No. 20076 filed August 6, 1975).

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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