

1974 S.C. Op. Atty. Gen. 116 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3748, 1974 WL 21265

Office of the Attorney General

State of South Carolina

Opinion No. 3748

April 9, 1974

*1 Honorable William F. Snipes
House of Representatives
State of South Carolina
Columbia, South Carolina

Dear Representative Snipes:

Pursuant to our conversation of last week, the following are the opinions of this office on the questions which you posed.

1. Does the Abbeville County Board of Commissioners have the authority to pass a fire protection plan for the county or would such a plan have to be passed by the General Assembly?

The General Assembly's Act #32 took effect February 17, 1973. Section C of this Act sets forth the powers and duties of the County Board. Subparagraph 7 of section 6 provides that the Board shall have the power to 'provide within the county special services which are considered necessary to public health and welfare.' Based on this authority it would appear that the County Board does have the power to pass a fire protection plan for Abbeville County.

2. Does the Abbeville County Board of Commissioners have the authority to call an advisory election regarding the county fire protection plan?

Absent specific legislative authority, an advisory election may not be held. Enclosed please find two prior opinions from our office which discuss this question (63 Attorney General's Opinions 129, 70 Attorney General's Opinions 190). We have been unable to locate any statutes authorizing the governing authorities to hold an advisory election of this nature; it is therefore the opinion of this office that the County Board of Commissioners does not presently have the authority to call for such an election.

Section 6 (Subparagraph 13) of Act #32 of 1973, provides that the Board of Commissioners shall have the power to 'supervise and regulate the various departments of the county, except that the duties and functions now provided by law for the offices of the sheriff, clerk of court, probate judge, coroner, magistrate and superintendent of education shall not be altered. The power of these officers to employ and designate the personnel made available to them shall not be infringed upon.' As long as the transfer of offices does not involve one of the enumerated offices set forth above, it is our opinion that the County Board of Commissioners of Abbeville County does have the authority to transfer the county assessor to the office of the county auditor.

Please let us know if we can be of any further assistance.

Very truly yours,

W. Davies Merry, III
Assistant Attorney General

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