

1973 S.C. Op. Atty. Gen. 16 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3446, 1973 WL 20911

Office of the Attorney General

State of South Carolina

Opinion No. 3446

January 11, 1973

*1 Act No. 1415 at 2607 Joint Acts and Resolutions of South Carolina 1972 authorizes municipalities and counties to use the same enforcement personnel in enforcing the County Building Code in the City Building Code.

TO: County Attorney
Greenville County

You have requested this Office to to advise you as to whether the City and County of Greenville may use the same enforcement personnel in enforcing the County and City Building Code.

Act No. 1415 at 2607 South Carolina Acts and Joint Resolutions, 1972, states in pertinent part, County and municipal bodies are authorized to establish regional agreements with other political subdivisions of the State to issue building permits and enforce building, electrical, plumbing, gas, housing and other codes in order to more effectively carry out the provisions of this Act.

General statutory construction would indicate that these words taken in their ordinary context authorize regional agreements with other political subdivisions, and that the legislature intended such. Both counties and municipalities being political subdivisions of the State, it would appear that regional agreements are available to and between such counties and municipalities. It is felt that the statutory wording in question is reasonably construed as allowing mutual agreements between counties and municipalities for among other things, enforcement. Therefore it would follow that mutual use of enforcement personnel would be authorized.

The law as pertains to mutual enforcement contracts between the county and municipalities, generally authorizes such. As is stated in Rhyne on Municipal Law Sec. 13–16 at 327, and . . .

Many states have authorized mutual aid contracts between municipalities for fire protection in case of emergency which would, of course, involve extra territorial operation of fire apparatus. Several states have adopted legislation authorizing any two or more municipalities or other political subdivisions to agree to jointly exercise any powers common to each . . . Much progress has been made in the past by joint action of cities and counties, particularly in the health and police fields, when conflicts respecting jurisdiction and services and litigation to avoid urban taxes would otherwise exist. See also 62 CJS Municipal Corporations Sec. 141.

Act No. 1415 in effect manifested legislative intent to county and municipal authorities to enter into agreements that would entail joint action by these entitles. The legislature did not express any limits as to this power and therefore it may be reasonably assumed that the county and city may make their own decisions as to the propriety and extent of joint functions.

It would appear that an officer of the city could have authority in the county (or vice versa) if it is so agreed. In State v. Rice, 154 N.C. 635, 74 S.E. 582, it was held that the legislature had the authority to confer upon a municipality jurisdictional rights beyond its city limits for sanitary or police purposes. In Barge v. Camp, 209 Georgia 38, 70 S.E. 2d 360, the Court upheld the county making an agreement with the city to transfer their entire police department to the city for the city to use to serve unincorporated areas. 56 Am. Jur. 2d Sec. 217 at 270 states:

*2 There is authority for the holding that there is no objection to the state, county, and municipality uniting in the promotion of a particular enterprise, if that enterprise for a purpose which may be regarded as a state, county, and municipal purpose. The right of municipal corporations to join with each other, or with the state or other political subdivisions, in such enterprises, has generally been upheld, except where it is prevented by constitutional or statutory prohibition. See also [123 A.L.R. 997](#).

Based upon the foregoing authorities and reasoning, it is the opinion of this Office that the City and County of Greenville can use the same enforcement personnel in enforcing the County Building Code and the City Building Code.

Timothy G. Quinn

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