

1973 WL 26632 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 23, 1973

*1 Mr. G. P. Callison
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Greenwood, South Carolina 29646

Dear G. P.:

Thank you for your letter of February 7 concerning, Act No. 1228 of 1970 creating the Greenwood County System of government. I am sorry that I have not heretofore responded to your inquiry.

Your question concerns whether or not the governing body of Greenwood County has the authority to abolish certain boards which are created by statute, but which are local in nature, and substitute, if desired, other boards or agencies to perform the functions of the boards which are abolished.

Act No. 1228 does not, in my opinion, vest such authority in the County Council of Greenwood County. Section 9(j) authorizes the board to prescribe methods and procedures of budgeting and accounting for all county departments, but I find no authority which would authorize the County Council to abolish boards which are created by statute. Act No. 1228 is modeled on a basic act which was approved for Charleston County in [Gaud v. Walker](#), 214 S.C. 451, 53 S.E.2d 316, but some modifications in this basic statute have been made with respect to various counties. A standard clause which is included in many of them authorizes the governing body of a county 'to direct and coordinate all administrative activities and to employ personnel and control the expenditure of appropriated funds and to generally supervise and direct the programs of all county departments.' Another standard power given many counties is the power to create other agencies and departments as may be deemed advisable and prescribe their duties and functions and to alter, consolidate, or transfer the duties and functions of existing officers, agencies, or departments as may be consistent with the general law of the State. A savings clause is generally included in this provision similar to that provided in Act No. 1228 in Section 9(k). This deals with the offices of coroner, clerk of court, etc. The Greenwood Act, however, does not contain a broad grant of authority such as is referred to and such as is found in many of the county acts. See, for example, section 9(n) in the Act creating the governing body of Spartanburg County (68 Acts 2459).

If powers of the nature described were vested in Greenwood County, a question would be presented as to whether this power included those agencies created by law, but the total absence of this power from the Greenwood Act leads me to conclude without reservation that the Greenwood County governing body does not have the authority to abolish those agencies which are created by law.

I am of opinion that this power could be vested in the governing body of Greenwood County by properly enacted statute, and I base this conclusion upon the holding of the Supreme Court in the [Gaud](#) case, which is to the effect that the doctrine prohibiting the delegation of legislative authority has no application to the vesting in political subdivisions of powers to govern matters which are local in scope. The Charleston Act, which was approved by the Supreme Court, contained provisions similar to the ones to which I have referred above and which are not found in the Greenwood Act. See Section 14-1169(15).

*2 I think clearly your only recourse is by amendment by the General Assembly, with a specific power being given to abolish all statutorily created boards which are local in application.

With best wishes,
Very truly yours,

Daniel R. McLeod
Attorney General

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