

1973 WL 26743 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 16, 1973

\*1 Mr. Hugh C. Lane  
Chairman of the Board  
The Citizens and Southern Corporation  
Post Office Box 1039  
Charleston, South Carolina 29402

Dear Hugh:

I regret the delay in answering your letter of April 18, 1973, concerning the contention by Dr. Jacobs that a constitutional amendment would be necessary to change his authority.

I think that Dr. Jacobs has overlooked the fact that the Constitution has been changed by an amendment voted on at the General Election in 1972 and ratified March 7, 1973. This amendment has the effect of striking from the Constitution Article 8 thereof and inserting therein the newly adopted constitutional provision. The reference in the Constitution to boards of health as it existed heretofore has been deleted, as shown by the Act proposing the amendment (72 Acts 3184) and by reference to the proceedings of the Committee which drafted the constitutional amendment. These proceedings show on page 97 the following: 'Section 10. Boards of Health. This section should be deleted since it only authorizes the General Assembly to do something which it can do anyway—.'

In short, the Constitution formerly provided that the General Assembly had the duty to create boards of health wherever they may be necessary. The old constitutional provision did not necessarily mean that county boards of health were required to be created, but this was the practice generally followed. This former constitutional provision is no longer in the Constitution and the matter of local boards of health is (as it apparently has always been) in the discretion of the General Assembly, and they are free to act as they wish.

I would assume that, until the General Assembly acts, the provisions of existing law would continue and, therefore, the conclusions expressed in my letter to you dated September 27, 1972, are applicable.

If you wish me to express an opinion about the application of existing statutes, which I was somewhat ambiguous about in my letter to you, I will be happy to do so. It is clear, however, that the alteration of any statutes relating to health will not require a constitutional amendment.

With best wishes,  
Very truly yours,

Daniel R. McLeod  
Attorney General

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