

1973 WL 26930 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 15, 1973

\*1 Mr. G. P. Callison  
County Attorney  
Callison & Dorn  
Attorneys-at-Law  
505-9 Textile Building  
Greenwood, South Carolina 29646

Dear Mr. Callison:

I regret that I have not previously answered your letter of August 29th concerning the application of a nepotism ordinance adopted by the Greenwood County Council. Your request to the opinion of this office with respect to elected department heads and county auditor and county treasurer in the light of Act No. 1228 approved May 12, 1970, reads in part as follows:

‘The respective elected department heads and the county auditor and the county treasurer shall have the right to employ and discharge their subordinate employees.’

The foregoing is quoted from a State statute which is paramount over any actions that may be taken by the Greenwood County Council in the exercise of its duties and functions as the governing body of Greenwood County. Its effect is to vest in elected department heads (including the county auditor, and treasurer) the right to employ and discharge their employees.

While I think that the authority to adopt an antinepotism ordinance lies properly within the authority of the Greenwood County Council, it is my opinion that such ordinance does not extend to the officials named in the portion of the statutes cited above. I am enclosing herewith a copy of an opinion dated January 30, 1973, and directed to the Chairman of the County Council of Beaufort County in which I state in the last paragraph:

‘It is my opinion that this (statutory provisions) authorized the county council to act with respect to prohibitions against nepotism within the county government but they may not act in this respect in the offices of auditor, etc. The organic act specifically vests in these offices the power to designate the personnel in their offices.’

The right is reserved to these officials by State law to employ and discharge their own employees. I am of the opinion, therefore, that the anti-nepotism ordinance of the County Council is not applicable to them.

With best wishes,  
Very truly yours,

Daniel R. McLeod  
Attorney General

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