

1972 WL 25169 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 10, 1972

***1 Re: Authority of Sumter County Commission to alter compensation of county officials under authority granted to it by 1967 Act No. 371.**

Mr. G. Werber Bryan

Bryan, Bahnmuller and King
P. O. Box 1568
Sumter, South Carolina 29150

Dear Mr. Bryan:

Your letter addressed to the Attorney General dated December 16, 1971, was referred to me for reply shortly before this office closed for the Christmas holidays on December 23. Because of the confusion surrounding the Christmas-New Year's schedule here in the office and my work load, I am only now getting around to responding to your inquiry; and I apologize for the delay.

While several questions are set forth in your letter, they all appear to your writer to be addressed, more or less, to one central common inquiry, that being stated in the third paragraph on the second page:

‘Can't the [Sumter County] Commission, by resolution, change fees and salaries of [county] officials although there is existent a state statute on the subject when only local (county) revenue is concerned (collecting and paying out)?

Assuming that the broad powers granted to the Sumter County Commission by Act No. 371 of 1957, 55 Stats. 523, particularly Section 9, might be construed to authorize the Commission to set the fees and salaries of all county officials, it is the opinion of this office that it was not the intent of the Legislature that the Commission could establish fees and salaries where such have been specifically prescribed by the Legislature.

Where the Legislature had, prior to the passage of the 1967 Act, established fee or salary schedules by statute applicable to Sumter County officers, to say that the Sumter County Commission could thereafter establish its own fee or salary schedules for such officers would be to say that the Act repealed by implication the earlier acts. As stated in the recent case of [Lewis v. Gaddy](#), 254 S.C. 66, 173 S.E.(2d) 376, repeals by implication are not favored, ‘and a law should not be construed as impliedly repealing a prior law unless no other reasonable construction can be applied . . .’ 254 S.C. 66 at 70.

Further, if the Commission had the powers contended for, it could override an enactment of the Legislature subsequent to the passage of Act No. 371. A case in point is 1971 Act No. 301, 57 Stats. 415, mentioned in your letter. This act amends Section 27–98 of the [1962 Code of Laws](#), which establishes the filing and recording fees for the Clerk of Court of Sumter County. It specifically provides that the fee for any service not included in the statute shall be as provided by general law. As of June 2, 1971, the fees of the Clerk of Court were set by the General Assembly. Surely the legislature would not have felt that it had to establish the fees for this office if it had intended that the Commission would have the authority to do the same thing under Act No. 371. Given the plenary control of the General Assembly over counties, see [Parker v. Bates](#), 216 S.C. 52, 56 S.E.(2d) 723, it would seem absurd to ascribe to the Legislature the intent that the Commission could, in effect, repeal or modify its specific directions.

*2 It is the opinion of this office that the Sumter County Commission is without authority to set the fees and salaries of officials where such have been specifically prescribed by the Legislature.

Very truly yours,

Robert W. Brown
Assistant Attorney General

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