

1972 WL 25225 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 28, 1972

*1 Honorable G. P. Callison
County Attorney

Messrs. Callison & Dorn
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505-9 Textile Building
Greenwood, South Carolina 29646

Dear G. P.:

Thank you for your letter of February 18, 1972, concerning the powers of the Greenwood County Finance Board with respect to the offices of Supervisor and Treasurer.

I feel that the answer to this question depends upon the construction given to the section cited by you, to wit, Section 9(k) of the 1970 Act, which requires that, as to the offices of Supervisor and Treasurer, their powers and functions shall not be altered or infringed by the provisions of this Act. It is my view that this restriction relates clearly to legislative powers and functions which are vested in those two officers at the time of the enactment of the 1970 Act creating the Finance Board and vesting it with certain authority. It is probable, in my opinion, that it also extends to those powers and functions which were vested in those officers by virtue of actions, if any, of previous Finance Boards as they were created under a pre-existing law. I have not researched this particular phase of the problem extensively, but I base it upon consideration of such cases as [LaFleur v. City of Baton Rouge](#), 124 So.2d 374, and opinion to the Governor (Rhode Island), 178 A. 437, where similar terms were employed.

Assuming this to be true, the status of the Supervisor and Treasurer appears this way to me:

Supervisor. The general duties of the Supervisor, which is applicable to Greenwood County, with relatively minor exceptions, is found in Section 14-254 and vests in him jurisdiction over public highways, over paupers, in all matters relating to taxes and disbursement of public funds for county purposes, and in other cases that may be necessary for the internal improvement and local concerns of the county. It appears that the authority with respect to maintenance and repair of roads and supervision thereof was taken from the Supervisor by Section 14-2216, which is the former Finance Board statute, and which Act, adopted in 1960, vested authority in the Finance Board 'to supervise the construction and proper maintenance of the County's roads, highways and bridges, etc.' The 1960 Act, by virtue of Section 9(1) authorized the present Finance Board 'to exercise all the powers and duties vested by law in the existing County Finance Board.' Therefore, so far as the supervision of roads is concerned, it appears to have been divested from the Supervisor and placed in the hands of the Finance Board by a prior statute, which authority is carried forward into the present Finance Board.

Chain Gang. Section 55-451 places the Chain Gang under the exclusive supervision and control of the County Supervisor.' I do not find any exemption for Greenwood County and Section 55-510 appears to recognize that this is so, particularly with respect to Greenwood County. This appears to be a power and function of the Supervisor which the Finance Board cannot infringe upon.

*2 With respect to the Treasurer, I do not believe that the Council has the authority to employ some other person than the Treasurer to handle statutory duties which are now vested in the Treasurer. These, of course, are very numerous and more specifically designated than the duties imposed upon the Supervisor. I believe that Section 9(j) would authorize the Council to prescribe, within the limits of statutory restrictions imposed upon the Treasurer, methods and procedures of budgeting and

accounting. Under the prior Finance Board powers (Section 14–2217), the present Board derives the authority ‘to conserve and protect the finances of the County, to provide for the receipt, custody, and disbursement of funds accruing to the County from whatever source derived.’ I believe that this probably points to the imposition of administrative procedures rather than the substitution of another person to perform the duties of the Treasurer. The area between the powers vested in the Finance Board and the powers which the Finance Board is precluded from interfering with by Section 9(k) are very shadowy and it is my belief that the Finance Board's powers are most probably limited to the imposition upon the Treasurer of methods and procedures which he is required to follow if those methods and procedures are not inconsistent with existing statutory provisions.

Throughout this letter, I have probably used the words ‘Council’ and ‘Board’ interchangeably, but I used these to designate the existing Finance Board created by the provisions of Act No. 1228 (70 Acts 2624).

If I may be of any assistance, please feel free to call upon me.

Cordially,

Daniel R. McLeod
Attorney General

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