



ALAN WILSON  
ATTORNEY GENERAL

April 8, 2013

The Honorable Ernie J. Washington, Sr.  
Hampton County Coroner  
703 2<sup>nd</sup> Street West, Room 108  
Hampton, SC 29924

Dear Coroner Washington:

We received your request for an opinion of this Office regarding the use of a vehicle by the Hampton County Coroner's Office. By way of background, you state that a 2005 Ford Explorer was donated to your Office by the Richland County Coroner's Office in connection with the performance of your duties. You further indicate that the Hampton County Council ("Council") recently voted to require you to place a Hampton County seal on the vehicle. You ask whether Council has authority to compel compliance with its mandate.

Upon information and belief, Hampton County operates under a Council-Administrator form of government. Provisions for this form of government are found at S.C. Code Ann. §§4-9-610 to -670. Pursuant to §4-9-620, Council appoints the Administrator who serves as "the administrative head of the county government" and is "responsible for the administration of all the departments of the county government which the council has the authority to control." [Emphasis added]. The position of county coroner is provided for in §17-5-10 *et seq.* The Hampton County Coroner is an elected official. See S.C. Const. art. V, §24; §§17-5-10 & 17-13-20.

Interpreting the various provisions of the Home Rule legislation, this Office has consistently advised that a county governing body and its officials are "generally considered as having only limited authority in dealing with the authority or duties of an elected official. ..." See, e.g., Ops. S.C. Atty. Gen., May 7, 2012 (2012 WL 1774920); June 19, 2006 (2006 WL 18771). In this context, a county council is generally prohibited from altering or regulating the duties or functions of an elected official whose office was created by statute or the State Constitution, except in those areas where expressly authorized:

[f]irst, there is no language in the provisions of the 'home rule' legislation that would provide the Council with the authority to add to the duties of, or alter the functioning of, an elected official other than in areas such as employee grievances [§4-9-30(7)], the establishment of an accounting and reporting system [§4-9-30(8)], and of a centralized purchasing system [§4-9-160] and the submission to it of annual fiscal reports from all county offices, departments, boards, commissions or institutions receiving county funds [§4-9-140]. Section 4-9-30(6) of the Code merely authorizes the Council to create and alter new agencies, to wit:

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to establish such agencies, departments, boards, commissions, and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof, and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions, and positions. ...

That language does not empower the Council to modify or regulate existing county offices created either by statute or by the State Constitution as the case may be, except in the areas hereinabove specified.

Op. S.C. Atty. Gen., Feb. 7, 1978 (1978 WL 34687). We have found these same principles applicable to the county coroner. See, e.g., Op. S.C. Atty. Gen., October 22, 1996 (1996 WL 679509); August 31, 1992 (1992 WL 575653). Council clearly possesses very limited authority regarding the operation of your Office.

In addition, §4-9-650 provides that:

“[w]ith the exception of organization policies established by the governing body,<sup>1</sup> the county administrator shall exercise no authority over any elected officials of the county whose offices were created either by the Constitution or by the general law of the State.” [Emphasis added].

See also McCormick County Council v. Butler, 361 S.C. 92, 603 S.E.2d 586, 586-87 (2004) [holding “the county has no authority to control the Clerk of Court” because “§4-9-650 specifically states that the county administrator does not have authority over elected officials whose offices are created by the Constitution”]. We thus take this opportunity to reiterate that a county council has no authority to interpret the coroner’s responsibilities or to direct him to perform in a particular manner. This would appear to apply to the situation you have described to us.

We also note that even though the vehicle was donated to your Office, it became a public vehicle of your Office just as though it had originated with public monies. See Op. S.C. Atty. Gen., January 25, 1995 (1995 WL 67626); July 31, 1991 (1991 WL 633027); see also Op. S.C. Atty. Gen., November 15, 1985 (1985 WL 166100) [in order to be public money, “it does not matter whether the money is derived by *ad valorem* taxes, by gift or otherwise” – citing Elliott v. McNair, 250 S.C. 75, 156 S.E.2d 421 (1967)].

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<sup>1</sup>We have interpreted “organizational policies” for purposes of §4-9-650 as including those areas in which a county council is expressly empowered to act, *e.g.*, in developing personnel policies and procedures, in establishing accounting, reporting and purchasing systems, and in formulating budgetary matters. See, e.g., Op. S.C. Atty. Gen., May 7, 2012; September 7, 1979 (1979 WL 43571); *cf. Op. S.C. Atty. Gen.*, July 31, 1991 (1991 WL 633027) [expenditures for an item with a recurring expense to a county must be approved by the county prior to purchase]; May 7, 1991 (1991 WL 632962) [same].

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With this in mind, §56-3-1710 provides:

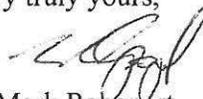
[t]he Department of Motor Vehicles shall design and supply . . . a special license plate, or supplemental plate or attachment, for use on all publicly-owned motor vehicles operated by any department or institution of the State of South Carolina, or any of its political subdivisions. It shall be unlawful for any such publicly-owned vehicle to be operated in the State of South Carolina that does not carry such official emblem, marker, or plates. Provided, however, that this provision shall not apply to the automobile supplied for the Governor's personal use, automobiles supplied to law enforcement officers, when in the opinion of the chief of the South Carolina Law Enforcement Division or the director of the department it is advisable that such automobiles not be so marked, nor to automobiles supplied to other state officials. [Emphasis added].

The obvious intent of the Legislature was to provide a means of identifying publicly-owned vehicles. Accordingly, your vehicle is required to possess at least one of these three methods of identification. See Op. S.C. Atty. Gen., September 7, 1979 (1979 WL 43570) [advising the disjunctive word “or” as used in the statute means that either of the three methods of identification serves the purpose of the statute].

We note that there are exceptions provided for vehicles supplied to the Governor’s Office, law enforcement officers when the chief of the South Carolina Law Enforcement Division or the director of the department deems it is advisable that such vehicles not be so marked, and statewide elective state officials. Op. S.C. Atty. Gen., September 3, 1980 (1980 WL 120853); cf. Ops. S.C. Atty. Gen., March 27, 2006 (2006 WL 981691) [advising that while a coroner has certain authority similar to that of a law enforcement officer, a coroner does not possess sufficient law enforcement authority to be considered a “law enforcement officer”]; June 27, 1991 (1991 WL 632997) [same]. These exceptions would therefore not apply to your Office.

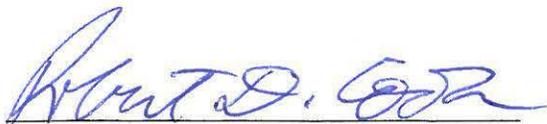
If you have any further questions, please advise.

Very truly yours,



N. Mark Rapoport  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Deputy Attorney General