

The State of South Carolina



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February 25, 1986

The Honorable Thomas H. Pope, III
Senator, District No. 18
502 Gressette Building
Columbia, South Carolina 29202

Dear Senator Pope:

By your letter of February 12, 1986, you have asked for an opinion on whether the Union County Hospital Board may have the composition of its membership changed by county ordinance, or whether such must be accomplished by an act of the General Assembly.

This Office has addressed various matters pertaining to the Union Hospital District in previous opinions, noting the District's status as a special purpose district. In opinions dated October 17, 1980 and January 14, 1980, it was concluded that power for appointment of members of the board should remain with the delegation, since Section 4-9-170, Code of Laws of South Carolina (1976), precludes county councils from appointing members of special purpose districts.

The appointment power was vested in Union County Council, the above opinions and Section 4-9-170 notwithstanding, by Act No. 294, 1985 Acts and Joint Resolutions. By an opinion dated April 29, 1985, this Office opined that Act No. 294 was of doubtful constitutionality since it violated Article VIII, Section 7 of the State Constitution, which provides that "[n]o laws for a specific county shall be enacted." The Governor vetoed the act on that basis, but the veto was overridden.

Section 4-9-80 of the Code provides in relevant part that

[t]he provisions of this chapter [Home Rule Act] shall not be construed to devolve any additional powers upon county councils with regard to public service districts, special purpose districts, water and sewer

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authorities, or other political subdivisions by whatever name designated (which are in existence on the date one of the forms of government provided for in this chapter becomes effective in a particular county) and such political subdivisions shall continue to perform their statutory functions prescribed in laws creating such districts or authorities except as they may be modified by act of the General Assembly
[Emphasis added.]

From the literal language of the statute, it would therefore be appropriate for the General Assembly, rather than Union County Council, to make changes in the composition of the board of Union Hospital District or to enact a general law which would permit the same result to be achieved in some other manner.

As we have advised on numerous occasions and again in the opinion dated April 29, 1985, a general law would be preferable to an act for a particular county, to avoid constitutional difficulties with Article VIII, Section 7 and also Article III, Section 34(IX) (enacting a special law where a general law could be made applicable). As noted in the April 29, 1985 opinion, our Supreme Court has struck down numerous acts adopted for only one county as violative of Article VIII, Section 7 in cases such as Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 (1974); Torgerson v. Craver, 267 S.C. 558, 230 S.E.2d 228 (1976); and Cooper River Parks and Playground Commission v. City of North Charleston, 273 S.C. 639, 259 S.E.2d 107 (1979). Copies of representative cases are enclosed.

Copies of the opinions referred to herein are enclosed for your information. If we may assist you further, please let us know.

Sincerely,

Patricia D. Petway
Patricia D. Petway
Assistant Attorney General

PDP/an
Enclosures

REVIEWED AND APPROVED BY:

Robert D. Cook

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