

1980 WL 120799 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 29, 1980

*1 Mrs. Belinda Isom
Executive Secretary
Anderson County Legislative Delegation
Anderson County Courthouse Annex
Anderson, South Carolina 29622

Dear Mrs. Isom:

In response to your request concerning the appointment powers of the Anderson County Legislative Delegation (Delegation), I can advise you as follows:

1. The Delegation retains the power to recommend and/or appoint the members of the Anderson County Board of Voter Registration, the Anderson County Election Commission, the Anderson County Board of Social Services, the Anderson County Forestry Board, the Anderson-Oconee-Pickens Mental Health Board, the Anderson County Children's Foster Care Review Board and the Pendleton District Historical and Recreational Commission because the members of those boards, some of which are not purely county boards, are appointed pursuant to general law and are, therefore, outside of the scope of the county council's appointment authority under [Section 4-9-170, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended, viz: [§ 7-5-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (Board of Voter Registration); [§ 7-13-70, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (Election Commission); [§ 43-3-10, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (Board of Social Services); [§ 48-35-50, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (Forestry Board); [§ 44-15-60, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (Mental Health Board); [§ 43-13-20, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (Foster Care Review Board); [§ 51-13-510, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended (Pendleton District Commission).

2. With respect to the Anderson County Airport Commission, the Anderson County Planning and Development Board, the Broadaway Lake Commission, the Anderson County Commission on Alcohol and Drug Abuse and, most probably, the Anderson County Memorial Hospital Board and the Anderson County Headstart Project, Inc., the Delegation can continue to exercise its recommendation and/or appointment powers until and unless the Anderson County Council by ordinance alters the method of appointing the members of those boards pursuant to [Section 4-9-170, CODE OF LAWS OF SOUTH CAROLINA](#), 1976, as amended. All of those boards were established by special law [38 STAT. 1194 (1934), as amended (Airport Commission); 51 STAT. 93 (1959), as amended (Planning and Development Board); 42 STAT. 231 (1941), as amended (Broadaway Lake Commission); 58 STAT. 948 (1973), as amended (Alcohol and Drug Abuse Commission)], although I cannot find indexed the special legislation that created the Anderson County Memorial Hospital Board or the Anderson County Headstart Project, Inc., and county councils have had the authority since January 1, 1980, to alter methods of appointment of members of boards created by special law pursuant to [Section 4-9-170 of the Code](#).

3. The Delegation retains the power to recommend and/or appoint the members of the Anderson County Fire Protection Commission because that board is the governing body of a special purpose district or other political subdivision, which is specifically exempt from the provisions of [Section 4-9-170 of the Code](#). See, 52 STAT. 492 (1961) (Fire Protection Commission). Most probably, the Forthill Natural Gas Authority and the Solid Waste Authority are also governing bodies of political subdivisions although I cannot find indexed the statutes which created them.

*2 4. The Delegation retains its recommendatory/appointive power with respect to the Anderson County Board of Education and the Anderson-Oconee-Pickens Technical Education and Training Commission because they are educational bodies. See, 47 STAT. 253 (1951) (Board of Education); § 59-53-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended (Technical Education Commission). The South Carolina Supreme Court has said that education is not a county function [Moye v. Caughman, 265 S.C. 177, 217 S.E.2d 36 (1975)] and Section 4-9-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, makes clear that the 'home rule' legislation does not devolve any additional powers upon county councils with respect to educational matters. I am also enclosing a copy of an earlier opinion which discusses technical education commissions in more detail.

5. The Delegation retains whatever recommendatory/appointive power it has been given under Section 6-7-110, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, with respect to the Appalachian Council of Governments because that board is not a 'county' board within the purview of Section 4-9-170, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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