

1977 S.C. Op. Atty. Gen. 68 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-74, 1977 WL 24416

Office of the Attorney General

State of South Carolina

Opinion No. 77-74

March 9, 1977

*1 Senator Ralph M. Ellis

State House

Columbia, South Carolina

Dear Senator Ellis:

You have posed several questions concerning Horry County matters to which I shall respond as follows:

1. In my opinion, the Coordinator of Federal Funds for Horry County is to be appointed by the Horry County Legislative Delegation, including the resident Senator, by virtue of the provisions of Act No. 688 of 1973. 58 STAT. 1322 (1973).

2. In my opinion, four of the five Commissioners of the Grand Strand Flood District (District) are to be appointed by the Horry County Legislative Delegation, including the resident Senator, by virtue of the provisions of Act No. 1857 of 1972. 57 STAT. 3692 (1972). The fifth Commissioner, who is an ex officio member and serves as chairman, is to be a member of and selected by the Horry County Board of Commissioners by virtue of the same legislation. The building inspector of that District is to be appointed by the Horry County Legislative Delegation, including the resident Senator, pursuant to a 1973 amendment to Act No. 1857 of 1972. 58 STAT. 1323 (1973). The building inspector is to inspect:

. . . the construction of all buildings in the district, including electrical and plumbing installations, and all other aspects of such construction in relation to all buildings built outside the corporate limits of municipalities within the district area. [Emphasis added.]

The area of the District includes 'all that area of Horry County between the Intra-coastal Waterway and the Atlantic Ocean which lies outside of any municipality.' My research does not reveal that an Horry County building inspector has been created subsequent to the creation of the District building inspector.

3. In response to your inquiry as to whether or not the General Assembly can abolish some but not all commissions prior to 1980, my opinion is that individual commissions most probably can be abolished by special legislation without running afoul of the prohibition of Article 8, Section 7 of the State Constitution. Cf., Kleckley v. Pulliam, 265 S.C. 177, 217 S.E.2d 217 (1975). If a commission of a public service district, a special purpose district, a water and sewer authority or any other political subdivision is abolished by legislation, however, I call your attention to the requirement for referendum approval of such abolition before it can take effect. Section 14-3705, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). In my opinion, the General Assembly most probably cannot transfer the appointment power heretofore vested in the Horry County Legislative Delegation vis a vis Horry County commissions, boards and agencies on a less than total basis. See, e.g., 59 STAT. 23 (1975).

As to the Civil Defense Advisory Commission, if it is a federally established commission, it cannot be abolished by the General Assembly. If it is a statutorily created commission, then, in my opinion, it can be so abolished. The Horry County Council could then re-create the position if it desired pursuant to § 14-3703(6), CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.).

*2 4. With reference to the Grand Strand Water and Sewer Authority (Authority), my opinion is that the service area of the Authority is:

. . . all of the area in Horry County between the Inland Waterway and the Atlantic Ocean and all areas of the county designated as growth areas by the Economic Development Administration on the effective date of this act, excluding any area within an incorporated municipality which owns and operates a municipal waterworks system. . . . 58 STAT. 1879 (1973).

The date referred to in the provision hereinabove quoted is October 29, 1973, the effective date of Act No. 838 of 1973. The service area of the Horry Water and Sewer Authority is:

. . . all of the area in Horry County west of the Inland Waterway, excluding any area within an incorporated municipality which owns and operates a municipal waterworks system, and all areas of the county not covered by the Grand Strand Water and Sewer Authority. . . . 57 STAT. 3684 (1972).

If either or both of these Authorities (or either or both of their governing bodies) is to be statutorily abolished and its (or their) functions placed under the control of the Horry County Council, that legislation cannot take effect until such abolition or absorption is approved by favorable referendum vote of a majority of the qualified electors of the district voting in such referendum. See, § 14-3705, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.).

With kind regards,

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