

1981 WL 157942 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 31, 1981

*1 Furman R. Gressette, Esquire
Attorney for Calhoun County Council
119 South Railroad Avenue
St. Matthews, South Carolina 29135

Dear Mr. Gressette:

In response to your request for an opinion from this Office regarding the authority of the Calhoun County Council vis a vis the Calhoun County Historical Commission, my opinion is that the Calhoun County Council is authorized to enact an ordinance in conflict with the special legislation which created the Commission. As of January 1, 1980, all county councils have been empowered to enact ordinances that repeal or otherwise alter the provisions of laws relating to their particular county. 58 STAT. 690 at 7 (1975). Inasmuch as the Calhoun County Historical Commission was created by special act [47 STAT. 1911 (1952); 57 STAT. 99 (1971)], the Calhoun County Council is empowered to enact an ordinance abolishing the Commission and replacing it with one established by the Council.

I do not believe that the Calhoun County Historical Commission is the governing body of a special purpose district notwithstanding the characterization of it as such in legislation [H-3113] enacted during this session of the South Carolina General Assembly. In that regard, I am enclosing a copy of a recent opinion issued by the Attorney General which discusses the probable invalidity of H-3113. I also enclose a copy of an order signed by the Honorable George F. Coleman, which order discusses the characteristics of special purpose districts and political subdivisions.

I also do not believe that the Calhoun County Museum, which is maintained by the Calhoun County Historical Commission, is an educational facility in the sense that it is to be subject to legislative as opposed to county control. Moye v. Caughman, 265 S.C. 140, 217 S.E.2d 36 (1975), which declared that 'public education is not the duty of the counties, but of the General Assembly' [565 S.C. at 143], dealt with a public school matter and any reliance upon its holding should be limited to public school matters until the South Carolina Supreme Court expands upon that decision. See also, § 4-9-70, CODE OF LAWS OF SOUTH CAROLINA, 1976, as amended, relating to 'public school' education.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

1981 WL 157942 (S.C.A.G.)