

1978 WL 34855 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 13, 1978

*1 Charlton B. Horger, Esquire
Horger, Horger & Barnwell
459 Amelia Street, N.E.
Orangeburg, S.C. 29115

Dear Mr. Horger:

You have requested an opinion from this Office concerning the authority of the Orangeburg Regional Hospital Board of Trustees to determine the location of a new hospital facility which has been contemplated in Orangeburg County.

The Orangeburg Regional Hospital Board of Trustees was created by Act No. 549 of the Acts and Joint Resolutions of South Carolina (1955). This Act states that the Board of Trustees 'shall be authorized and empowered to do all things necessary or convenient for the establishment and maintenance of adequate hospital facilities for Orangeburg County.' The Act specifically enumerates that the Board shall have the power to acquire real property as well as dispose of any real or personal property that it may possess.

It is this Office's understanding that the Board of Trustees of the Orangeburg Regional Hospital has determined that a new hospital facility will be necessary in order to provide an adequate health care facility for the citizens of Orangeburg County. Pursuant to this decision the Board of Trustees sought approval from the Orangeburg County Council for the issuance of general obligation bonds for the funding of the new facility. These bonds will be issued in accordance with the dictates of [§ 4-15-10 of the 1976 Code of Laws of South Carolina](#), as amended. In addition revenue bonds would be issued under the authority of the Hospital Revenue Bonding Act. ([§ 44-7-1410 of the 1976 Code](#)).

It is this Office's understanding that the County Council of Orangeburg County has established procedures for the issuance of both general obligation as well as revenue bonds provided that the hospital facility will be constructed at a particular location. You have raised the question of whether or not the power to determine the location of the hospital facility rests with the Orangeburg Regional Hospital Board of Trustees or the County Council of Orangeburg County.

The circumstances existing here are remarkably similar to those in the case of [City of Spartanburg vs. Blalock](#), 223 S.C. 252, 75 S.E.2d 360, in which the City of Spartanburg sought to control and manage the fiscal affairs of the water works system of the City pursuant to its bond issuing authority. Such control had been vested in the Commissioners of Public Works by statute. The Supreme Court of South Carolina held that nothing in the bond statute of the City affected the statutory authority of the Commissioners of Public Works to manage the affairs of the water works system. In the opinion of this Office the reasoning of this case is clearly applicable to the authority vested in the Orangeburg Regional Hospital Board of Trustees. There appears to be nothing in the statute pursuant to which bonds are proposed to be issued which amends the basic authority of the trustees to establish and maintain adequate hospital facilities for Orangeburg County; instead the Hospital Bonding Act provides a vehicle for financing hospital facilities. The authority to issue bonds to finance the construction of the intended hospital facility rests with the governing body of Orangeburg County. There is nothing in the bonding act to indicate that the authority of the Orangeburg Regional Hospital Board of Trustees with respect to the establishment and maintenance of hospital facilities in Orangeburg County is at all affected thereby. It is the opinion of this Office that the power and authority to determine the location of hospital facilities in Orangeburg County is vested in the Orangeburg Regional Hospital Board of Trustees.

Very truly yours,

*2 Perry M. Buckner
Assistant Attorney General

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