

1978 WL 34860 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 14, 1978

*1 Mr. John M. Spratt, Jr.,
Spratt, McKeown and Spratt
26 West Liberty Street
York, SC 29745

Dear Mr. Spratt:

Mr. McLeod has referred your letter of March 7, 1978 to me for response. You have requested an opinion from this Office concerning two aspects of constructing new facilities for York General Hospital.

(1) Is the new hospital building contract subject to the competitive bidding requirements of either S1-1-440 or [§ 44-7-730 of the 1976 Code of Laws of South Carolina](#)?

(2) What procedure must be followed in order for the hospital's trustees to sell the old facility to a private hospital corporation?

Although this Office strongly advises that competitive bidding be employed, we are in agreement as to your assessment that neither § 1-1-440 or [§ 44-7-730 of the 1976 Code](#) apply to York County Hospital.

§ 1-4-440 requires competitive bidding of 'all State agencies and departments.' As a subdivision of York County, the hospital is a county agency or department rather than a state one.

[§ 44-7-730](#) states that 'no hospital building shall be erected or constructed until . . . plans have been made . . . and bids advertised.' However, previous opinions of this Office indicate that this restriction applies only to hospitals created under the auspices of Title 44 (see enclosures). Act No. 919 of 1938 created York County Hospital and therefore this hospital's building contracts are not subject to 44-7-730.

As to the sale of the old facility you ask if, due to the purpose of Act 919 and its failure to specifically allow sale of hospital property by trustees, the Act must be repealed prior to sale of the old facility.

Your interpretation of the Act is correct as to its requiring a continuing operation of a public hospital in York County. Therefore, Act 919 would have to be repealed if sale of the old facility was made prior to the completion of the new hospital. However the 'saving clause' language of Section 15 ('This act . . . shall be liberally construed') and the purpose of the Act as set forth in Section 8 is sufficiently broad to encompass sale of one property for the purpose of building an improved facility as long as there is a continuing medical facility in York County. Furthermore, in light of § 16 of Act 919 which concerns the dissolution of the hospital, it appears that York County, (not the trustees) hold title to the hospital. Therefore only sale of the old facility would require an ordinance, and public advertisement by York County Council. As noted before the necessity of actual dissolution of the hospital and repeal of Act 919 would depend upon whether the sale occurs prior to or after completion of the new facility.

Sincerely,

A. Camden Lewis

Sr. Assistant Attorney General

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