

1976 WL 30838 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 15, 1976

*1 Peter D. Hyman, Esquire
Hyman, Morgan & Brown
Post Office Box 1770
Florence, South Carolina 29501

Dear Mr. Hyman:

You have requested an opinion from this Office as to whether or not the Florence County Council can enact an ordinance establishing special magistrates for the purposes of setting bond, issuing criminal warrants and so forth in Florence County. In my opinion, it cannot.

As you noted in your letter, Article V. Section 23 of the South Carolina Constitution provides in part:

The Governor, . . . , shall appoint a number of magistrates for each county as provided by law. The General Assembly shall provide for their terms of office and their civil and criminal jurisdiction. [Emphasis added.]

The Judicial Reform Act [Act No. 690 of 1976] does not effect any changes vis a vis magisterial courts except to increase their civil jurisdiction from two hundred to five hundred dollars. Art. IV, § 1 of Act No. 690 of 1976; cf., Art. VII, § 4 thereof. Nowhere in the provisions of Act No. 283 of 1975, the 'home rule' legislation, is there any grant of authority to a county council to affect in any way the functioning of magisterial courts, with the exception of the language in Section 14-3703(14) thereof.

In my opinion, therefore, any alteration in the number of magistrates in Florence County, be they special or otherwise, must be done by legislation and, most probably, by general law.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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