

1976 S.C. Op. Atty. Gen. 337 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4477, 1976 WL 23094

Office of the Attorney General

State of South Carolina

Opinion No. 4477

October 5, 1976

*1 The Greenwood County Hospital Board must comply with the provisions of the Freedom of Information Act, Section 1–20, et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended.

TO: Charles Traynor Ferillo, Jr.
Executive Director
Research and Personnel
House of Representatives

QUESTIONS PRESENTED:

1. Does the Freedom of Information Act encompass the Greenwood County Hospital Board?
2. Does the Freedom of Information Act require the Board to make public all information relating to the award of a contract to a private corporation for hospital services, such bid having been awarded subsequent to the consideration of several bids?

AUTHORITIES INVOLVED:

Section 1–20, et seq., CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended;

Act 1554 of 1968, Acts and Joint Resolutions.

DISCUSSION:

As this Office understands the facts, the Greenwood County Hospital Board requested bids from two private companies for services to be rendered to Self Memorial Hospital. During an executive session of the Board meeting, the Board decided to award the contract to one of the two bidders. The executive session was not called pursuant to the provisions of Section 1–20.3 or Act 608 of 1976. Furthermore, the Board has refused to release information as to why the bid was awarded as it was.

In 1968, by virtue of Act 1554, Self Memorial Hospital was taken over by the County of Greenwood, and the Greenwood County Hospital Board was established. Section 1–20.1 of the Freedom of Information Act defines a ‘public agency’ as ‘. . . any public or governmental bodies or political subdivisions of the State, including counties, . . . and special purpose districts, or any organization, corporation or agency supported in whole or in part by public funds, or expending public funds; . . .’ In that Self Memorial Hospital is now a county controlled and supported Hospital, the Hospital and its Board is clearly a ‘public agency’ within the meaning of the Freedom of Information act and is therefore subject to its provisions.

As to whether the Freedom of Information Act requires the Hospital Board to ‘make public all information relating to the award of a contract to a private corporation for hospital services,’ this Office is of the opinion that such information

must be made public. Furthermore, the award of the bid in question is not within the exceptions contained in 1-20.3(b) which allows a public agency to go into executive session for purposes of discussion or consideration. As long as the matter under discussion does not fall within the special executive session exemptions, it must be discussed in public and voted on in public.

CONCLUSION:

Therefore, it is the opinion of this Office that the Greenwood County Hospital Board is subject to the provisions of the Freedom of Information Act and cannot make its decision on this contract award in executive session. The Board must discuss the contract award in open session and make a public vote on the contract award.

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