

1976 S.C. Op. Atty. Gen. 287 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4431, 1976 WL 23048

Office of the Attorney General

State of South Carolina

Opinion No. 4431

August 26, 1976

*1 Hon. L. L. Rice

Treasurer

Beaufort County

P. O. Drawer 409

Beaufort, South Carolina 29902

Dear Mr. Rice:

You have requested an opinion from this Office as to whether or not the Beaufort County Council (Council) is presently authorized to alter the prescribed statutory duties of the Beaufort County Treasurer by adding thereto. In my opinion, it is not.

Our Office has consistently taken the position that until a county's new form of government and method of election under Act No. 283 of 1975, the 'home rule' legislation, have been approved by the United States Department of Justice pursuant to Section 5 of the 1965 Voting Rights Act, that county should not exercise any of the new powers granted to it by the provisions of Act No. 283. Our information is that Beaufort County's new form of government and method of election were submitted to the Justice Department in mid-July and have not been approved to date. Consequently, until such approval is received, Beaufort County's governing body should operate pursuant to Section 14-1019, CODE OF LAWS OF SOUTH CAROLINA, 1962, as amended (Cum. Supp.). Nowhere in that legislation is the Council granted the authority to expand the duties of the Beaufort County Treasurer. Indeed, Section 12(13) of Act No. 994 of 1968, after expressly empowering the Council to supervise and regulate the various departments of the county, states:

. . . except that the duties and functions now provided by law for the offices of auditor, treasurer, . . . , shall not be altered or infringed.

In my opinion, an expansion of the Beaufort County Treasurer's duties from those presently imposed by statute constitutes an alteration of those duties and is expressly prohibited. See, e.g., [Kraus v. Kraus](#), 22 N.E.2d 862 (1939). Moreover, I can find no language in Act No. 283 that would provide the new county council with the authority to add to the duties of, or alter the functioning of, the Treasurer's office once 'home rule' becomes effective in Beaufort County, other than in areas such as employee grievances [§ 14-3703(7)], the establishment of an accounting and reporting system [§ 14-3703(8)] and of a centralized purchasing system [§ 14-3713] and the submission to it of annual fiscal reports from all county offices, departments, boards, commissions or institutions receiving county funds [§ 14-3711]. Section 14-3703(6) of that Act merely authorizes the county council to create and alter new agencies, to wit:

to establish such agencies, departments, boards, commissions, and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof, and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions, and positions, . . . [Emphasis added.]

That language does not empower the county council to modify or regulate existing county offices created by statute such as the county treasurer's office.

*2 Finally, the provisions of Sections 14-415 and 14-416 of the Code will not be applicable in Beaufort County once 'home rule' is in effect therein because that County will be operating pursuant to the council-administrator form of county government, which form does not provide for a county supervisor. In fact, as far as I can determine, Beaufort County's present form of county government does not provide for a county supervisor.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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