

1976 WL 30873 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

November 24, 1976

*1 John E. Huguley
Chairman
Long-Range Planning Committee
Trident Chamber of Commerce
P. O. Box 975
Charleston, SC 29402

Dear Mr. Huguley:

Attorney General McLeod has requested that I respond to your letter to him of October 14, 1976, concerning the Charleston County Board of Health. Accordingly, I have reviewed Dr. Jacobs' letter of September 22, 1976, as well as Mr. McLeod's letter of September 27, 1972, directed to Mr. Hugh Lane. In so doing, I have found no reason that Mr. McLeod's letter of September 27, 1972, should be altered.

While Dr. Jacobs correctly points out that not all of the legislation establishing county boards of health includes the phrase 'under the direction and control of the State Board of Health,' he apparently did not read the legislation establishing other such boards of health closely enough. In the Acts establishing each of the boards of health cited by Dr. Jacobs as being outside the authority of the Department of Health and Environmental Control, there is language closely paralleling that wording contained in Section 5 of the Act created the Orangeburg County's Board of Health. The pertinent language reads as follows:

The county board of health is vested with all rights, powers, duties, privileges and responsibilities that are imposed by law upon local boards of health in incorporated cities and towns and shall have such other powers and duties as are prescribed in this act.

The rights, powers, duties and responsibilities of local boards of health in municipal corporations within the state are set forth in Section 32-61 of the Code of Laws of South Carolina, 1962, as amended. The relationship between the State Board of Health and the local boards is addressed in Section 32-61 as follows:

However, the board and its employees shall function under the administration, control, guidance and direction of the State Board of Health. The rules and regulations or operational procedures of any board established hereunder shall not be in conflict with any rule, regulation or procedure of the State Board of Health, and in the event of any conflict, the rules, regulations and procedures of the State Board of Health shall prevail.

It seems therefore apparent that all of the county boards of health listed by Dr. Jacobs as being outside of the control of DHEC do, by virtue of this language, fall under the direction and control of DHEC.

I would point out that, in addition to Charleston County, two (2) of the county boards of health are not required by statute to come under the direction and control of DHEC. These are the boards of health for Oconee and Pickens counties. I am informed, however, that these boards of health are not presently in existence. Therefore, the Charleston County Board of Health remains the only such county board in existence which is not under the control of the Department of Health and Environmental Control.

I hope that this may resolve any questions which you might have. Please contact me, however, should further questions arise.

Very truly yours,

*2 M. Richbourg Roberson
Staff Attorney

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