

1976 WL 30913 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 29, 1976

\*1 Senator Tom Turnipseed  
560 Meeting Street  
West Columbia, South Carolina 29169

Senator William E. Knotts  
15 West Street  
Williston, South Carolina

Senator Nikki G. Setzler  
P. O. Box 1036  
West Columbia, South Carolina 29169

Gentlemen:

In response to your request for an opinion from this Office as to the present duties of the legislative delegation now that the provisions of Act No. 283 of 1975, the 'home rule' legislation, are operative, the following areas of concern remain within the province of the legislative delegation:

1. In the area of public education, the new county council has no new powers by virtue of the provisions of Act No. 283. See, § 14-3704, CODE OF LAWS OF SOUTH CAROLINA, 1962, (Cum. Supp.); see also, [Moye v. Caughman](#), 265 S.C. 140, 217 S.E.2d 36 (1975). Thus, the delegation can introduce legislation pertaining to only one county if that legislation deals with the functioning of a school district or any other aspect of public education without running afoul of the constitutional prohibition against laws for a specific county. See, e.g., 59 STAT. 1072 (1975).
2. The legislative delegation is to be provided with office space, personnel, supplies and equipment by each county council pursuant to the provisions of Section 14-3717, CODE OF LAWS OF SOUTH CAROLINA, 1962, (Cum. Supp.). The delegation is to determine the amount of appropriations necessary for the operation of its office and the county council is to include that amount in its annual budget. The delegation is also responsible for the employment, supervision and discharge of the personnel in the delegation office.
3. The legislative delegation retains its appointive and recommendatory powers as to all existing county boards, committees and commissions until at least January 1, 1980, unless it decides to vest those powers in the county council earlier [see, e.g., 59 STAT. 23 (1975)]. After January 1, 1980, the county council can provide by ordinance for the appointment of all county boards, committees and commissions except those whose appointment is provided for by general law or the Constitution (e.g., county board of voter registration, county election commission, county board of social services) and those that are related to school districts, special purpose districts and other political subdivisions created by the legislature. Moreover, the legislature cannot now vest its appointive and recommendatory powers in the county council as to county boards, committees and commissions whose members are appointed pursuant to general law or the Constitution or which relate to school districts, special purpose districts and other political subdivisions created by the legislature. See, § 14-3714, CODE OF LAWS OF SOUTH CAROLINA, 1962, (Cum. Supp.).
4. Act No. 283 of 1975 provides that the legislature retains its authority vis a vis special purpose districts which were established before the new county council becomes effective in a particular county except as its powers have been or

may be delegated to the county council. See, e.g., 59 STAT. 331 (1975); 58 STAT. 2018 (1974). There is a constitutional question, however, which the Supreme Court has not yet been presented with as to whether or not existing special purpose districts are to be eventually replaced by county-level operations or are to continue in existence indefinitely except as modified by the General Assembly.

With kind regards,

\*2 Karen LeCraft Henderson  
Assistant Attorney General

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