

1975 WL 29651 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1975

\*1 Mr. Benjamin M. Racusin  
Chairman  
Commission for Island Government  
15 Twin Pines Road  
Sea Pines Plantation  
Hilton Head Island, SC 29928

Dear Mr. Racusin:

In reference to your inquiry regarding the creation of an 'Island Commission' for Hilton Head Island, the opinion issued by this Office on January 24, 1975, concerned the formation of such a commission under the authority of Act No. 487 of 1967. 55 STAT. 863 (1967). That opinion declared that the unincorporated community of Hilton Head Island did not have the authority to create such a commission under that statute; the material which you submitted does not reach the thrust of that opinion and, therefore, the conclusion reached therein is reaffirmed.

The question which you pose appears to be whether or not the creation of an Island Commission with areas of concern additional to those addressed by the Beaufort County Planning Commission can be authorized by the Beaufort County Council.

Our review of the statutory provisions delineating the powers possessed by the Beaufort County Council prior to March 7, 1973, does not reveal any authority to create such a body and to fund it by levying a tax on Hilton Head Island property owners. On March 7, 1973, the General Assembly ratified the Local Government Amendment to the South Carolina Constitution, [See, 58 STAT. 67 (1973)] which Amendment was intended, *inter alia*, to expand the roles and functions of South Carolina's counties and municipalities. By Section 7 of Article 8, the Local Government Amendment, the structure, organization, powers, duties, functions and responsibilities of counties are to be provided for by the General Assembly by general law; that is to say, Article VIII, Section 7 is not self-executing. Our Office has consistently taken the position that, until the General Assembly does so act, counties and other political subdivisions may exercise only those powers which they possessed as of March 7, 1973. Since the Beaufort County Council did not, in our opinion, possess the power to create such a commission on March 7, 1973, it cannot do so at the present time.

With kind regards,

Karen LeCraft Henderson  
Assistant Attorney General

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