

1975 S.C. Op. Atty. Gen. 194 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4119, 1975 WL 22415

Office of the Attorney General

State of South Carolina

Opinion No. 4119

September 17, 1975

*1 The Greenville County Council does not have the authority to eliminate township magistrates in Greenville County.

The Greenville County Council does not have the authority to terminate salary payments to the township magistrates of Greenville County.

TO: Honorable Charles Garrett
Senator
Greenville County

QUESTIONS PRESENTED:

Does the Greenville County Council have the authority to eliminate the positions of township magistrates in Greenville County?

Does the Greenville County Council have the authority to terminate salary payments to the township magistrates of Greenville County?

STATUTES INVOLVED:

Section 43–791, 1962 Code of Laws of South Carolina, as amended.

Section 14–20, 1962 Code of Laws of South Carolina.

Black's Law Dictionary (4th Ed.), SHALL, p. 1541.

DISCUSSION OF ISSUES:

Section 43–791 of the 1962 Code of Laws of South Carolina, was amended in 1971 by Act No. 289 which provides for the existence and location of the Magistrates for Greenville County. This Act was passed by the Legislature of South Carolina and is therefore State law. It goes without saying that the Greenville County Council does not have the authority to amend or repeal the existing laws of the State of South Carolina.

Section 14–20 of the 1962 Code of Laws of South Carolina states ‘Each County shall pay: . . . (6) Fees or salaries of magistrates . . .’ (Emphasis added). The meaning given to the use of the word shall in statutory construction is generally mandatory. (See Black's Law Dictionary, SHALL, p. 1541.) Therefore, the Greenville County Council has no authority to withhold payment of salaries from those magistrates of Greenville County which are established by State law.

CONCLUSION:

The Greenville County Council does not have the authority to eliminate township magistrates in Greenville County. The Greenville County Council does not have the authority to terminate salary payments to the township magistrates of Greenville County.

Hutson S. Davis, Jr.
Assistant Attorney General

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