

1975 S.C. Op. Atty. Gen. 243 (S.C.A.G.), 1975 S.C. Op. Atty. Gen. No. 4194, 1975 WL 22491

Office of the Attorney General

State of South Carolina

Opinion No. 4194

November 21, 1975

*1 Mr. William A. Dallis
South Carolina Court Administration
Supreme Court Building
1231 Gervais Street
Columbia, SC 29211

Dear Mr. Dallis:

Subsequent to your inquiry regarding the legal obligation of the counties in South Carolina to provide facilities and support personnel necessary to accommodate the circuit courts, my office has researched the question and we have concluded that the counties do have such an obligation. The history of the operation of the circuit courts in South Carolina has been one of cooperation between the state and individual counties with specific legal obligations performed by both governments. The construction and maintenance of courtroom facilities is now and traditionally has been a county obligation.

As early as 1785 the General Assembly passed Act No. 1263, 'An Act For Laying Off the Several Counties Therein Mentioned and Appointing Commissioners to Erect Buildings' which empowered the local justices to erect and keep in good repair 'one good and convenient courthouse with necessary jury rooms.' In recent years individual counties, including Greenville, Spartanburg and Florence, have constructed new courthouses and issued bonds pledging the full faith and credit of the county to the payment of the bonds and interest in order to build the said courthouse. See, e.g., Act No. 1379 of 1950 (Spartanburg) or Act No. 1272 of 1966 (Florence).

In addition to the county responsibilities to construct courthouses there are specific statutory obligations imposed on the county to repair existing courtroom facilities and to provide alternative facilities if the existing facilities are unusable. Section 14-606 directs the governing bodies of the counties to make any alterations and additions 'deemed advisable or which may become necessary to any court-house.' Significantly, Section 14-14 imposes a statutory obligation upon the county to furnish space should the courthouse be unusable.

If at any time the courthouse of any county in this state shall be in the course of reconstruction or repair or from any other cause shall not be in condition to be occupied the governing body of the county must furnish suitable rooms for the accommodations of the court and public officers. (Emphasis added.)

In addition it should be noted that the so-called Judicial Reform legislation (H. 2721) presently before a committee of free conference of the General Assembly provides in Article VIII

The counties shall provide sufficient physical facilities for the operation of Circuit and District Courts and statewide juvenile probation systems.

In regard to support personnel for the circuit courts the applicable statutes impose specific obligations on both state and county governments. The circuit judges are, of course, paid by the state as are the judges' secretaries and law clerks. However the statutes impose on the counties the obligation to pay witnesses [§ 14-20(2)], jurors [§ 14-20(1)], and clerks of courts [§ 14-20(4)]. Manifestly all of these parties are necessary for the functioning of the court system.

*2 The courts themselves have the inherent power to compel other units of government to provide the resources, financial or personnel, necessary to the orderly administration of justice. See, Justice Bussey's opinion in Greenfield v. Greenfield, 245 SC at —, 141 S.E.2d at 293 (1965); see also, 20 AM.JUR.2d, Courts, § 79, footnote 19
For example no place or facilities for holding court being provided, the court has the inherent power to provide the necessary place and equipment . . . (Emphasis added.)

Finally, the Home Rule Act (No. 283 of 1975) referred to by Mr. Black in his letter to you is not, in my opinion, applicable to this question. First, the act itself is not presently in effect in Charleston County. Secondly, it would appear that Article VIII, § 14(4) of the South Carolina Constitution would proscribe any local interference with the state judicial system. Thirdly, even if the act were in effect, the requirement for additional courtroom facilities does not arise from a general law as provided in § 14-3703.2 but rather results from an order of the Chief Justice pursuant to Article 5, § 4 issued through the duly appointed court administrator.

It is my opinion that it is the obligation of the counties to provide the facilities and support personnel other than judges and court reporters for the circuit courts assigned to a county.

Sincerely,

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Attorney General
Kenneth L. Childs
Staff Attorney

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