

1974 WL 27590 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
January 11, 1974

*1 Honorable G. Werber Bryan
County Attorney
Messrs. Bryan, Bahnmuller, King and Goldman
Attorneys at Law
Post Office Box 2038
Sumter, South Carolina 29150

Dear Werber:

I am very sorry that I have not heretofore responded to your letter of November 9 concerning the authority of the County Council of Sumter County to make provision by ordinance for the Historical Commission of Sumter County.

In my opinion, the Commission does not have the authority to alter the provisions of the statute which created the Sumter County Historical Commission (Section 14-3421, as amended). The method of appointment of members is provided in that statute and, in my view, is controlling until it is altered or repealed by the General Assembly. The repeal of the statute may present some problem with respect to special legislation and some provision should be made in the county forms of government that are now being drafted to provide for the repeal of statutes relating to the powers of counties which are not uniform in application at the present time.

I reach the foregoing conclusion in view of a case decided by the Supreme Court which held invalid an ordinance of the County or City of Spartanburg declaring that TB Sanitoria would be classed as nuisances for the reason that the Legislature had established by law a TB Sanitorium in Spartanburg County. The Supreme Court has recently held that previous statutes of special application were not rendered invalid by the adoption of the local government amendment and they therefore continue. I would assume that they would therefore not declare invalid the repeal of such statutes of non-general application and that is the course which I think is indicated with respect to the statute providing for the establishment of the Sumter County Historical Commission if the County Council wishes to undertake the formulation of such a Historical Commission under its present powers, which I think it can do, except for the existing statute. To create another commission would be merely duplication of this.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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