

1974 WL 28069 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 6, 1974

\*1 The Honorable Lucius O. Porth  
Member  
House of Representatives  
Lexington County Courthouse  
Lexington, South Carolina 29072

Dear Mr. Porth:

Your letter of August 22, 1974, requests an opinion of this office with regard to whether the act creating the Lexington County Council and County Manager superseded the act creating the Public Safety Commission for Lexington County as to hiring and expenditure of funds.

Section 2, Act 294 of 1969, as amended by Act 149 of 1971, sets forth the duties of the Public Safety Commission:

Section 2. It shall be the duty of the commission to formulate, supervise and administer a public safety program, including civil defense, for Lexington County pursuant to State law and in cooperation with State and Federal agencies and programs. The commission may purchase equipment, with the approval of the County Board of Commissioners or proper authorities. employ, direct and discharge personnel including the County Public Safety Director, enter into contracts and do such other things as may be necessary to carry out the provisions of this act.

In subsequent legislation, the General Assembly by Act No. 1067 of 1972, created the county council and county manager form of government in Lexington County. Among the powers and duties of the county council are:

7. To provide within the county in its discretion, special services which are considered necessary to public health, welfare, and safety, such as water, sewer, refuse or garbage collection and disposal facilities, fire protection, and may collect such service charges from the persons benefited by such services. (Emphasis added.) Section 13(7) Act of 1972.

Furthermore, in 1973, the General Assembly enacted Act No. 128, entitled 'AN ACT TO PROVIDE FOR CIVIL DEFENSE AND DISASTER CONTROL IN SOUTH CAROLINA: AND TO REPEAL CHAPTER 3 of TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1962, RELATING TO CIVIL DEFENSE.' Section 7(2) of that Act provides that the county and municipal governments shall be responsible for:

(a) Organizing, planning and otherwise preparing for prompt, effective employment of available resources of the county or municipality to support disaster operations of the municipalities of the county, or to conduct disaster operations in areas where no municipal capability exists.

(b) Coordinating support to municipal disaster operations from other sources including State and Federal assistance as well as support made available from other municipalities of the county.

This Act specifically repealed Section 44-308, Code of Laws of South Carolina (1962), which gave the county delegation the authority to appoint a county chairman for civil defense and to supervise his program.

It is an elementary principle of statutory construction that statutes must be considered together and harmonized, if possible. Repeal of a statute by implication is not favored, and an act should not be construed as impliedly repealing a prior statute unless no other reasonable construction can be applied. There is an irreconcilable conflict between the powers and duties given to the PSC under the earlier statute and the powers and duties vested in the county government under the 1972 statute. It is manifest that Act No. 1067 of 1972 abridged the powers previously exercised by the PSC. Being the last expression of the legislative will, it is controlling. Furthermore, it becomes more apparent from reading Act 128 of 1973, that the legislature has vested all of the powers and duties previously exercised by the PSC in the county government.

\*2 Your letter requested an opinion as to whether Act No. 1067 superseded the 1969 PSC Act as to hiring and expenditure of funds. It is the opinion of this office that Act No. 1967 impliedly repealed the earlier statute in its entirety, and that all responsibilities for public safety are now vested in the county council.

Very truly yours,

Richard B. Kale, Jr.  
Assistant Attorney General

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