

1974 S.C. Op. Atty. Gen. 287 (S.C.A.G.), 1974 S.C. Op. Atty. Gen. No. 3866, 1974 WL 21367

Office of the Attorney General

State of South Carolina

Opinion No. 3866

October 11, 1974

\*1 W. R. Saffold  
Superintendent  
Barnwell District 445 Schools  
Haggod Avenue  
Barnwell, SC 29812

Dear Mr. Saffold:

You have asked to know by what authorities county superintendent of education may withhold his approval or authorization of a district board of school trustees' warrant for funds to pay teachers' salaries, etc. I would like to quote to you portions from two statutes applicable to this situation. Section 21-951 of the 1962 Code of laws provided in part as follows:

No school warrants issued by any board of school trustees assignee any public school fund shall by the county treasurer or other officer having the custody of such fund until the warrant has been approved by the county superintendent of education of the county in which such warrant is drawn. . . .

Section 21-957 of the Code reads as follows:

All moneys disbursed by any county treasurer on account of school funds or taxes shall be paid on the order of the board of school trustees, countersigned by the county superintendent of education, or as otherwise directed by law.

The term 'unanimous vote' as used in Section 47-?? has been defined to mean the unanimous vote of all those members present at the meeting, rather than the unanimous vote of all members of the council. See, 43 Words and Phrases at 50 (1969). Furthermore, the 'vote is to be taken by yeas and nays and entered upon the council's journal.' This is an indication that the members voting are those who are present and may vote by yeas and nays.

You also asked whether the lower Dorchester County case, [Knight v. Salisbury, 262 S.C. 565, 206 S.E.2d 875 \(14 Smith's Advance Sheets June 17, 1974\)](#), has any bearing on Section 47-804, assuming arguendo, that this Section is special legislation. This question was decided in the negative by the State Supreme Court in [Neel v. Shealy](#), a copy of which is enclosed.

Finally you ask whether or not the City of Rock Hill may operate under provisions regulating the council-manager form of government without formally adopting that form of government. Specifically you are concerned with Section 47-699.4, which governs the financial interest of councilmen and employees in city contracts. As nearly as I can determine, the City of Rock Hill is not now under the council-manager form of government. It is the opinion of this Office that until such time as the City of Rock Hill adopts this form ?? of government in accord with Sections 47-691 et seq. Code of Laws of South Carolina (1962) (as amended), it may not rely upon the provisions under this Section. Therefore, Section 47-699.4 is not applicable to the City of Rock Hill.

Yours very truly,

M. Elizabeth Crum

Assistant Attorney General

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