

1974 WL 27983 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 9, 1974

*1 Mr. Richard P. Owens
Chairman
County Council of Hampton County
P. O. Box 103
Hampton, South Carolina 29924

Dear Mr. Owens:

Thank you for your letter concerning whether or not the County Board of Commissioners has the exclusive power to make recommendations to the Governor for the various county boards and offices.

Act Number 815 of the 1966 Acts and Joint Resolutions states at Section 4

. . . Any appointments in Hampton County to be made by the Governor upon the recommendation of the Senate shall henceforth be made upon the recommendation of a majority of the County Council except as provided in the Constitution of this State, and any appointments now made upon the recommendation of a majority of the Hampton County Legislative Delegation shall henceforth be made upon the recommendation of a majority of the County Council.

Pursuant to this act any appointment previously made by the Legislative Delegation would now be made by the County Council. However, there are certain exceptions. The act itself states that the council will make recommendations except where otherwise provided for in the Constitution. Article 5, Section 23 of the South Carolina Constitution provides such an exception by granting the Senate the power to advise and consent to any appointment of a magistrate by the Governor. Additionally, where a general state statute expressly provides for the procedure to be followed in appointing certain officers these procedures would still be followed. For example, Section 23-51 of the Code of Laws states that the Board of Registration for each county shall be appointed with the advice and consent of the Senate. This general law would still control and should be followed in appointing members to the Board.

Therefore, the County Council has the authority to make all recommendations except where the Constitution or State statute has already clearly established an alternate procedure.

Sincerely,

Treva Ashworth
Assistant Attorney General

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