

1973 S.C. Op. Atty. Gen. 43 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3467, 1973 WL 20931

Office of the Attorney General

State of South Carolina

Opinion No. 3467

January 30, 1973

**\*1 Re: Act No. 994, approved March 19, 1968 (Section 14–1019, Code of Laws for South Carolina, as amended)**

Honorable Colden R. Battey, Jr.  
Chairman  
County Council of Beaufort County  
Post Office Box 1031  
Beaufort, South Carolina 29902

Dear Mr. Battey:

Thank you for your letter of January 25, 1973, inquiring as to whether or not the County Council of Beaufort County may, under the terms of its County Council Act, cited above, take action to prohibit nepotism within the County government.

Act No. 994 of 1968 provides for a system of County government in Beaufort County, the governing body being designated as the County Council of Beaufort County. It has broad powers basically similar to those adopted in about one-half of the counties of the State at the present time and being basically modeled upon the Act approved in [Gaud v. Walker, 214 S.C. 451, 53 S.E.2d 316](#). That case recognized the authority of the General Assembly to provide for systems of county government which were not uniform throughout the entire State. Section 12, Subsections 13 and 14, of the Beaufort County Act provide that the County Council is empowered to legislate in matters of local concern, and shall have, among others, the following powers:

‘13. To supervise and regulate the various departments of the county, except that the duties and functions now provided by law for the offices of the Auditor, Treasurer, Supervisor, Sheriff, Clerk of Court, Probate Judge, Coroner and Superintendent of Education shall not be altered or infringed. The power of these officers to designate the personnel made available to them shall not be infringed upon.’

‘14. To employ all county employees except school teachers and personnel of the county board of education; provided, however, that the officials specified in Section 12, Subsection 13, shall have the right to designate the personnel to fill the positions in their offices.’

It is my opinion that this authorizes the County Council to act with respect to prohibitions against nepotism within the County government, but they may not act in this respect in the offices of Auditor, Treasurer, Supervisor, Sheriff, Clerk of Court, Probate Judge, Coroner and Superintendent of Education. The organic act specifically vests in these officers the power to designate the personnel in their offices. There is admittedly some question with respect to whether a constitutional issue may be presented by lack of uniform treatment among county employees within a single county, but it is my view that the selection of personnel is a matter not likely to be disturbed by the courts.

Very truly yours,

Daniel R. McLeod  
Attorney General

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