

1973 S.C. Op. Atty. Gen. 112 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3505, 1973 WL 20966

Office of the Attorney General

State of South Carolina

Opinion No. 3505

April 3, 1973

**\*1 The use of the designation by statute of an agency of Berkeley County as a ‘body politic and corporate’ does not have the effect of subjecting this agency to an action in tort.**

County Attorney

You have inquired as to whether the designation by statute of an agency of Berkeley County as a ‘body politic and corporate’ has the effect of rendering such agency or political subdivision subject to suit in tort. A typical example cited by you is the Board of Rural Fire Control for the Moncks Corner area which, by the provisions of Sections 14–1095, 1096, Code of Laws, 1962, Supplement, is declared to ‘be a body politic and corporate.’

It is my opinion that the use of this designation does not have the effect of subjecting this agency to an action in tort. The precise situation appears to have been faced by the Supreme Court of South Carolina in *Sherbert v. School District*, 169 S. C. 191, 196, 168 S. E. 391, which concerned a school district, all of which have, for many years, been designated to be bodies politic and corporate and which have been repeatedly held by the Supreme Court of this State to be immune from tort liability. The Court stated:

‘While it is true that political subdivisions of the State may be sued on their contracts without statutory provision, we do not think it was the intent of the Legislature, in the enactment of the above-quoted section, to make a school district liable in an action *ex delicto*, as it is not so expressly provided by its terms.’

The same conclusions were reached and reiterated in *Brooks v. One Motor Bus*, 190 S. C. 379, 3 S. E. 2d 42.

There appears to be no statute applicable to any of the agencies of Berkeley County about which you inquire which specifically renders them liable to suit in tort and, in my opinion, they are not subject to such suit. Certain motor vehicle liability is imposed upon them by virtue of an Act adopted in 1968 which subjects political subdivisions to liability within certain limitations by reason of the negligent operation of a motor vehicle by an employee on official business. Sections 10–2621, *et seq.*, Code of Laws, 1962, Supp.

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