



HENRY McMASTER  
ATTORNEY GENERAL

March 17, 2010

Larry D. Moody, Director of Administrative  
and Legislative Services  
South Carolina Forestry Commission  
P. O. Box 21707  
Columbia, South Carolina 29221

Dear Mr. Moody:

In a letter to this office you indicated that as provided by this State's "Forest Renewal Law", codified at S.C. Code Ann. §§ 48-28-10 et seq., the State Forester and the State Forestry Commission have administered the Forest Renewal Program in this State since 1983. In association with such, you stated

The SC Forestry Commission is leading SC Forestry's 20/15 Project for job creation and economic development. The project is designed to increase forestry's economic impact from \$17 billion to \$20 billion annually and job numbers from 84,000 to 96,000 by 2015. One of the actions needed to accomplish this goal is to aggressively market SC forest products and recruit new forest based businesses. Because the Commission does not have any funds for marketing, the State Forester is considering using a portion of the funds generated by the Forest Renewal Law for marketing purposes.

Referencing such, you have requested an opinion as to the authority of the State Forester to use a portion of the Forest Renewal Law Funds to support a marketing and economic development initiative as described above in addition to cost-sharing provisions as authorized under Section 48-28-50. That provision states that

The State Forester may administer the cost-sharing provisions of this chapter which shall include, but not be limited to, the following duties:

1. Prescribing the requirements for making application for cost-sharing funds.

2. Identifying those approved practices as defined in item 6 of § 48-28-30 which shall be approved for cost-sharing under the provisions of this chapter.
3. Reviewing periodically the cost of forest renewal practices and establishing allowable ranges for cost-sharing purposes for approved practices under varying conditions throughout the State.
4. Determining, prior to approving cost-sharing payments to any landowner, that all proposed practices are appropriate and are comparable in cost to the prevailing cost of those practices.
5. Determining, prior to approving cost-sharing payments, that an approved forest management plan as defined in item 7 of § 48-28-30 for the eligible land has been filed with the State Forester and that the landowner has indicated in writing his intent to comply with the terms of such management plan that related to cost-share payments.
6. Determining, prior to approving cost-sharing payments, that the approved practices for which payment is requested have been completed in a satisfactory manner, conform to the approved forest management plan submitted under item 5 of this section and otherwise meet the requirements of this chapter.
7. Disbursing from the forest renewal fund, comprised of appropriated funds and forest assessment funds, to eligible landowners, cost-sharing payments or satisfactory completion of practices provided for by this chapter and insofar as is practicable disbursing funds equally from the state appropriated funds and the forest renewal assessment funds, until appropriated funds are expended after which expenditures shall come from the forest renewal assessment funds subject to limitations of § 48-28-100.
8. Applying directly funds resulting from slippage as defined in item 10 of § 48-28-30 to the revolving forest renewal fund which shall be available for applying to cost-sharing for additional landowners.
9. Publishing guidelines for implementing this chapter.
10. Initiating recollection of all cost-share payments if a landowner does not meet the requirements of § 48-28-80, for ten years.

Pursuant to Section 48-28-20,

[t]he State Forester shall implement a forest renewal program to encourage private investments in the improved management of forest lands and resources within the State to ensure adequate future high quality timber supplies, related employment and other economic benefits and the protection, maintenance and enhancement of a productive and stable forest resource system. In furtherance of this purpose, the State Forester shall:

1. Provide financial assistance to eligible landowners to increase the productivity of the privately-owned forests of the State through the application of forest renewal practices.
2. Ensure that forest operations in the State are conducted in a manner designed to protect the soil, air and water resources, including, but not limited to, streams, lakes and estuaries through actions of landowners on lands for which assistance is sought under provisions of this chapter. Application of generally acceptable forest practices should be implemented in each case.
3. Implement a program of voluntary landowner participation through the use of a forest renewal fund to meet the above goals.
4. Coordinate the program with other related programs in such a manner as to encourage the utilization of private agencies, firms and individuals furnishing services and materials needed in the application of practices included in the forest renewal program.  
(emphasis added).

Section 48-28-100 states that

[t]here is created in the Commission the forest renewal fund for which fiscal management and responsibility is vested in the State Forester.

The fund shall be the depository for all revenue derived from the forest development assessment on primary forest product processors as authorized by the General Assembly and for any funds appropriated specifically for the forest renewal program from the general fund. State appropriated funds remaining in the forest renewal fund at the end of any fiscal year shall revert to the general fund. Revenues derived from the forest renewal assessment shall not revert but shall remain in the forest renewal fund until expended under the provisions of this chapter.

In any fiscal year, new funding agreements from the forest renewal fund are limited to five times the amount of the state appropriation for the Forest Renewal Law for that year plus the amount of any cancellation or slippage funds from previous agreements. Whenever necessary to comply with the terms of a contract, payments in a fiscal year may exceed five times the amount of the state appropriation.

In any fiscal year, expenditures from the forest renewal fund shall be limited to five times the amount of the state appropriation for the Forest Renewal Law for that year.

In any fiscal year, no more than five percent of the available funds generated by the Primary Forest Products Assessment Law, Chapter 30 of this title, shall be used for program support under the provisions of § 48-28-40.

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Funds used for the purchase of equipment under the provisions of § 48-28-40 shall be limited to state appropriations to the forest renewal fund designated specifically for equipment purchase.

The Commission shall serve as the disbursing agency for funds expended from and deposited in the forest renewal fund. (emphasis added).

When interpreting the meaning of a statute, certain basic principles must be observed. The cardinal rule of statutory interpretation is to ascertain and give effect to legislative intent. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). Moreover, statutes should be given a reasonable and practical construction which is consistent with the policy and purpose expressed therein. State v. Blackmon, 304 S.C. 270, 403 S.E.2d 660 (1991); Jones v. South Carolina State Highway Department, 247 S.C. 132, 146 S.E.2d 166 (1966).

As noted in an opinion of this office dated December 23, 2008, if a statute is remedial in nature, it must be liberally construed to carry out the purpose mandated by the General Assembly. As noted at 3 Sutherland Statutory Construction § 60:1 (6<sup>th</sup> ed.),

[a] liberal construction is ordinarily one which makes the statutory rule or principle apply to more things or in more situations that would be the case under a strict construction...When there is an ambiguity in a remedial statute, it should be construed to meet the cases which are clearly within the spirit or reason of the law, or within the evil which it was designed to remedy, providing the interpretation is not inconsistent with the language used, resolving all reasonable doubts in favor of applicability of the statute to a particular case...Courts also presume that ambiguous language in a remedial statute is entitled to a generous construction consistent with its reformatory mission.

An opinion of the Virginia Attorney General dated November 27, 2002 noted that certain legislation addressed in the opinion "...is remedial in nature and is intended to address long-standing and intractable problems related to economic development...As a remedial statute,...(the legislation)...should be liberally construed to accomplish this underlying legislative intent." An opinion of the Mississippi Attorney General dated December 3, 1999 recognized the declaration of policy of the legislation cited in the opinion and stated that it was intended "...to promote the balanced economic development of the state...." As a result, it was stated that "[a]ll the terms and provisions of this article are to be liberally construed to effectuate the purposes herein set forth, this being a remedial law." An opinion of the Connecticut Attorney General dated February 28, 1992 construed legislation which benefitted workers and employees "during difficult economic times." As such, the opinion noted that consideration must be given to the "remedial purpose" of the legislation and "the principle of its liberal construction with respect to beneficiaries."

The State Supreme Court in Hartsville Cotton Mill v. South Carolina Employment Security Commission, 224 S.C. 407, 79 S.E.2d 381 at 384 (1953) noted that "...economic insecurity due to

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unemployment was declared a menace to health, moral and welfare of the people of the State....” The Court further acknowledged that “...the Unemployment Compensation Law is remedial in nature and should be liberally construed to give effect to its beneficent purposes.” Id. Similarly, in Swift & Company v. United States of America, et al., 393 F.2d 247 at 253 (7<sup>th</sup> Cir. 1968), the court referred to the Packers and Stockyards Act as “...remedial legislation...(which)...is to be construed liberally in accord with its purpose to prevent economic harm to producers and consumers at the expense of middlemen.” See also: Holcomb v. The Daily News, 384 N.E.2d 665, 668 (N.Y. 1976) (“...being remedial in character [the Workers’ Compensation Law] is to be construed liberally to accomplish the economic and humanitarian objects of the act.”); Pennsylvania Agricultural Cooperative Marketing Association v. Ezra Martin Co. et al., 495 F. Supp. 565, 569 (M.D. Pa. 1980) (“There is no question that the legislation in question...is remedial in nature and intended to be construed liberally with its purpose to prevent economic harm to producers and consumers.”).

While Section 48-28-20 specifically authorizes designated purposes for the forest renewal program, in the opinion of this office, such designations should not be construed as limitations on the prescribed intent that the program “encourage private investments in...related employment and other economic benefits.” Consistent with the previously recognized authority, a liberal construction of what would be included in such benefits would be in order. Therefore, in the opinion of this office, the State Forester would be authorized to support a marketing and development initiative to market State forest products and recruit forest based businesses in the manner described above.

With kind regards, I am,

Very truly yours,

Henry McMaster  
Attorney General



By: Charles H. Richardson  
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Deputy Attorney General