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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

December 15, 2003

Richard L. Smith, Chief of Police
Fort Lawn Police Department
Post Office Box 37
Fort Lawn, South Carolina 29714

Dear Chief Smith:

In a letter to this office you questioned whether official action by a town council is required when an agreement is signed between two law enforcement agencies pursuant to S.C. Code Ann. Section 23-1-210 (1989). Such provision allows for the temporary transfer of law enforcement officers between municipalities and counties.

Section 23-1-210 states

(A) Any municipal or county law enforcement officer may be transferred on a temporary basis to work in law enforcement in any other municipality or county in this State under the conditions set forth in this section, and when so transferred shall have all powers and authority of a law enforcement officer employed by the jurisdiction to which he is transferred.

Subsection (B) states that

Prior to any transfer as authorized in subsection (A), the concerned municipalities or counties shall enter into written agreements stating the conditions and terms of the temporary employment of officers to be transferred....

(emphasis added). Therefore, pursuant to subsection (B) there is to be a written agreement between the municipalities and counties affected. It appears that such agreement is to be between the respective councils for each affected municipality or county and not just the affected law enforcement agencies. Such construction is supported by language in S.C. Code Ann. Section 23-1-215 (A) (1989) which provides for the execution of agreements for purposes of criminal investigation "between or among the law enforcement agencies involved". Such provision further states further that

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(D)The agreement authorized by this section may be terminated in writing at the discretion of any of the law enforcement agencies involved...

(E) The respective governing bodies of the political subdivisions, wherein each of the law enforcement agencies entering into the agreement authorized in subsection (A) is located, must be notified by its agency of the agreement's execution and termination.

(emphasis added). Therefore, the language in Section 23-1-215 which only requires notification of the governing bodies of the agreement between the affected law enforcement agencies stands in contrast to the language in Section 23-1-210 which provides for agreements between "the concerned municipalities or counties". As a result, it is our opinion that for the temporary transfer of law enforcement officers pursuant to Section 23-1-210, there must be an agreement between the councils of the affected municipalities or counties.

With kind regards, I am,

Very truly yours,



Charles H. Richardson
Senior Assistant Attorney General