



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

August 26, 2003

G. F. Broom, Jr., City Manager
City of Camden
P. O. Box 7002
Camden, South Carolina 29020

Dear Mr. Broom:

In a letter to this office you questioned whether there is any legal prohibition to prevent the City of Camden from offering its employees the voluntary option of a deferred compensation plan separate from the South Carolina Deferred Compensation Plan.

S.C. Code Ann. Sections 8-23-10 et seq. (1986) authorize the participation of employees of the State, its agencies and political subdivisions in authorized deferred compensation programs. Pursuant to Section 8-23-20, the South Carolina Deferred Compensation Commission was established. That Commission was authorized to implement and administer the State Deferred Compensation Program. However, Section 8-23-70 expressly provides that

Nothing contained in this chapter shall be construed to prohibit counties, municipalities, school districts, and other political subdivisions of the State and their employees from participation in deferred compensation plans or programs offered independently of the State Deferred Compensation Commission by building and loan or savings and loan associations, banks, trust companies and credit unions chartered by the state or federal governments, and all such political subdivisions shall be empowered with such contractual authority as may be necessary or incident to such participation.

Further provisions provide for additional requirements of such accounts. Prior opinions of this office have recognized the authority of political subdivisions and schools to participate pursuant to Section 8-23-70 in deferred compensation programs offered by entities other than the State Deferred Compensation Commission provided they meet statutory requirements. See: Ops. Atty. Gen. dated February 26, 1996; December 8, 1993; June 26, 1981.

I am enclosing a copy of the December 8, 1993 opinion which expressly indicated that the firm referenced in your letter, International City Managers Association (ICMA), may provide investments under its deferred compensation plans to employees of the State, its agencies and

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political subdivisions provided certain requirements are met. As to any participation by Camden city employees with ICMA or any other particular deferred compensation plan, you should consult with your city attorney to determine whether such plan presently meets statutory requirements for deferred compensation plans which would enable it to offer plans in this State.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

Enclosure