



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES M. CONDON
 ATTORNEY GENERAL

March 23, 2000

George L. Schroeder, Director
 Legislative Audit Council
 1331 Elmwood Avenue, Suite 315
 Columbia, South Carolina 29201

RE: Informal Opinion

Dear Mr. Schroeder:

Your opinion request has been forwarded to me for reply. You inform this Office the Legislative Audit Council (hereinafter the "LAC") has received a request to audit the Pee Dee Regional Transportation Authority (hereinafter the "PDRTA"). You have asked whether the LAC has the authority to conduct audits of regional transportation authorities, specifically the PDRTA.

The LAC's authority is codified at S.C. Code Ann. § 2-15-10 *et seq.* The LAC is directly responsible to the General Assembly and is independent of any other state agency, board or department. Among the duties of the LAC is "[t]o establish a system of post audits for all fiscal matters and financial transactions for all state agencies of the state government." S.C. Code Ann. § 2-15-60(d). Section 2-15-50 defines "state" agencies as

... all officers, departments, boards, commissions, institutions, universities, colleges, bodies politic and corporate of the State and any other person or any other administrative unit of state government or corporate outgrowth of state government, expending or encumbering state funds by virtue of an appropriation from the General Assembly, or handling money on behalf of the State, or holding any trust funds from any source derived, but does not mean or include counties.

An "audit" is defined by Section 2-15-50 as

... a full-scope examination of and investigation into all state agency matters necessary to make a determination of:

- (a) (1) whether the entity is acquiring, protecting, and using its resources, such as personnel, property, and space, economically and efficiently;
- (2) the causes of inefficiencies or uneconomical practices; and
- (3) whether the entity has complied with laws and regulations concerning matters of economy and efficiency; and
- (b) (1) the extent to which the desired results or benefits established by the General Assembly or other authorizing body are achieved;
- (2) the effectiveness of organizations, programs, activities, or functions; and
- (3) whether the entity has complied with laws and regulations applicable to the program.

The issue you present is, therefore, whether the PDRTA would be considered a "state agency" for purposes of Section 2-15-50.

An analysis of this issue must start with the proposition that this Office has previously recognized in applying Section 2-15-50 to particular situations and determining whether an entity is a "state agency" for purposes of the jurisdiction of the LAC, that "[t]he General Assembly intended to cast a broad net and include state agencies, departments, divisions, institutions, units, bodies politic and corporate and corporations of most every form" Op. Atty. Gen. dated August 18, 1997. In this same regard, we have noted that "[t]his provision, in its literal sense, purports to capture practically every instrumentality of the State." Id.

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The PDRTA is a regional transportation authority that provides public transportation services to nine South Carolina counties. Regional transportation authorities are governed by the provisions found in Section 58-25-10 et seq. of the Code, known as the "Regional Transportation Authority Act." Regional transportation authorities may be funded by a variety of sources, including local, state, and federal sources. S.C. Code Ann. § 58-25-60.

This Office has never addressed the question of whether a regional transportation authority would be considered a "state agency" for purposes of Section 2-15-50. However, we have been asked this question in regards to other multi-county public agencies. In an opinion dated August 18, 1997, we were asked whether the LAC possessed the authority to audit the GLEAMNS Human Resource Commission (hereinafter "GLEAMNS"). GLEAMNS is governed by Section 43-41-10 et seq. of the Code and encompasses Greenwood, Laurens, Edgefield, Abbeville, McCormick, Newberry, and Saluda counties. GLEAMNS is charged with the responsibility of implementing programs designed to improve the health, education, welfare, housing, and employment opportunities of economically disadvantaged persons in these counties. GLEAMNS must be funded by federal, state, county, municipal or private organizations.

The opinion analyzed the legislation which created GLEAMNS and relevant case law and concluded that GLEAMNS was a "state agency" for purposes of the LAC's jurisdiction. I will not repeat the entire legal basis for this conclusion here, however, I note that the fact GLEAMNS acts on behalf of a seven-county area of the State and is not confined to any one county, school district, public service district or municipality was instrumental in reaching this conclusion. It was further concluded that GLEAMNS, as a custodian of public funds, handles money on behalf of the State and holds trust funds, as is required by Section 2-15-50. Therefore, it was found that GLEAMNS was subject to audit by the LAC.

I believe the conclusions reached in the GLEAMNS opinion apply to the PDRTA as well. The PDRTA acts on behalf of a multi-county area of the State and is not confined to any one county, school district, public service district or municipality. Further, the PDRTA may be funded by a variety of sources, including local, state and federal, and, therefore, as a custodian of public funds, handles money on behalf of the State and holds trust funds. Thus, for the same reasons stated in the GLEAMNS opinion, the PDRTA is subject to audit by the LAC.

This letter is an informal opinion only. It has been written by a designated assistant attorney general and represents the position of the undersigned attorney as to the specific

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questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With best personal regards, I am

Sincerely yours,



Paul M. Koch
Assistant Attorney General