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The State of South Carolina



Office of the Attorney General

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February 24, 1988

Allan J. Spence
Director, Division of Motor Vehicle Management
State Budget and Control Board
1022 Senate Street
Columbia, South Carolina 29201

Dear Allan:

Your letter to Attorney General Medlock has been referred to me for response. By your letter, you have requested a formal opinion advising if "the Egg Board is a 'State Agency' within the definition of the Motor Vehicle Management Act and how this opinion would impact on the Board's exemption from the Procurement Act of 1981."

S.C. Code Ann. §1-11-220 (1976) established, within the State Budget and Control Board, the Division of Motor Vehicle Management. According to §1-11-220, "[t]he Board shall develop a comprehensive state Fleet Management Program. The program shall address acquisition, assignment, identification, replacement, disposal, maintenance, and operation of motor vehicles." S.C. Code Ann. §1-11-250(a) (1976) provides:

- For purposes of §§1-11-220 to 1-11-330:
- (a) "State agency" shall mean all officers, departments, boards, commissions, institutions, universities, colleges and all persons and administrative units of state government that operate motor vehicles purchased, leased or otherwise held with the use of state funds, pursuant to an appropriation, grant or encumbrance of state funds, or operated pursuant to authority granted by the State.

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The Agricultural Commodities Marketing Act, S.C. Code Ann. §§46-17-10 through -470 (1976), provides for the establishment of commodity boards. S.C. Code Ann. §46-17-190 (1976). Pursuant to the Agricultural Commodities Marketing Act, S.C. Code Ann. R5-140 through R5-159 (vol. 23 1976) govern the South Carolina Egg Board.

The primary consideration in statutory construction is the intention of the legislature. Citizens and Southern Systems, Inc. v. South Carolina Tax Comm'n, 280 S.C. 138, 311 S.E. 2d 717 (1984). When interpreting a statute, legislative intent must prevail if it can be reasonably discovered in the language used, which must be construed in the light of the intended purpose of the statutes. Gambrell v. Travelers Ins. Cos. 280 S.C. 69, 310 S.E. 2d 814 (1983). A lawmaking body's construction of its language by means of definitions of terms employed should be followed in the interpretation of an act or a section to which it relates and is intended to apply. Fruehalf Trailer Co. v. South Carolina Elect. & Gas Co., 223 S.C. 320, 75 S.E. 2d 688 (1953).

The definition of "state agency" contained in §1-11-250(a) is quite broad. Your letter indicates that the South Carolina Egg Board has requested permission from the Division of Motor Vehicle Management to lease a Buick LeSabre for use by the director. In response to your first inquiry, the South Carolina Egg Board would probably, therefore, fall within the definition of "state agency" contained in §1-11-250(a).

Section 63 (IV)(C) of the 1987-88 appropriations act, 1987 S.C. Acts 170, contains various line-item appropriations for the commodity boards. Section 63.3 of the 1987-88 appropriations act provides:

63.3. Expenditures made for the various Commodity Boards as budgeted under other funds in Paragraph IV Marketing Services, C. Commodity Boards be exempted from regulations under the Procurement Act of 1981.

1987 S.C. Acts 170, §63.3.

Laws giving specific treatment to a given situation take precedence over general laws on the same subject. Duke Power Co. v. S.C. Public Service Comm'n, 284 S.C. 81, 326 S.E. 2d 395 (1985). Statutes in apparent conflict which address similar subject matter must be read together and reconciled if possible so as to give meaning to each and to avoid an absurd result. Powell v. Red Carpet Lounge, 280 S.C. 142, 311 S.E. 2d 719 (1984).

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Concerning your second inquiry, your letter indicates that "all state agencies are required to purchase and/or lease vehicles from a contract previously approved and awarded in accordance with [the statutory provisions concerning the Division of Motor Vehicle Management and the South Carolina Consolidated Procurement Code]." Although 1987 S.C. Acts 170, §63(IV)(C) may contain line-item appropriations for travel and transportation and 1987 S.C. Acts 170, §63.3 contains a general exemption for Commodity Boards from application of the South Carolina Consolidated Procurement Code, the statutory provisions concerning the Division of Motor Vehicle Management are specific legislation for a comprehensive and uniform Fleet Management Program in South Carolina. Thus, the statutory provisions concerning the Division of Motor Vehicle Management would probably take precedence in the situation described in your letter over 1987 S.C. Acts 170, §63.3.

In conclusion, assuming the facts contained in your letter, the South Carolina Egg Board appears to fall within the definition of "state agency" contained in S.C. Code Ann. §1-11-250(a) (1976). Also, the statutory provisions concerning the Division of Motor Vehicle Management would probably take precedence, assuming the facts contained in your letter, over 1987 S.C. Acts 170, §63.3.

If I can be of further assistance, please do not hesitate to contact me.

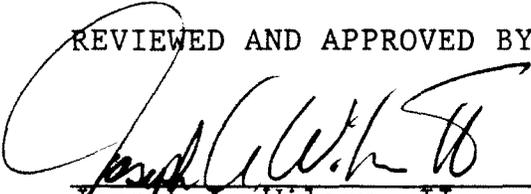
Sincerely,



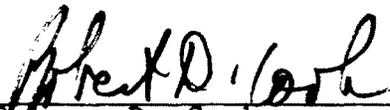
Charles W. Gambrell, Jr.
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CWGjr./fg

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