

The State of South Carolina



Office of the Attorney General

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October 7, 1987

Honorable J.M. Long, Jr.
Senator, Horry County
Post Office Box 142
Columbia, South Carolina 29202

Dear Senator Long:

You have requested an opinion as to whether the Horry County Legislative Delegation can legally transfer funds from the Water Resources Recreation Fund, created by § 12-27-390, 1976 Code of Laws as amended, to the non-resident fishing license fund created by § 50-9-460. The proposed transfer would cover some part (or all) of the salary of a secretary employed by the Horry County Law Enforcement Unit of the South Carolina Wildlife and Marine Resources Department.

The Water Resources Recreation Fund is a gasoline tax distributed to the counties based on the number of boats and other watercraft registered in each county. It is required to be expended "for the purpose of water recreational resources."

The county Game Fund, which receives a substantial amount of its proceeds from the sale of fishing licenses to non-residents of the state, consists of funds which "must be expended in the respective counties for the purposes of propagation of fish and game, for the promotion and conservation of wildlife resources, and for the enforcement of game laws."

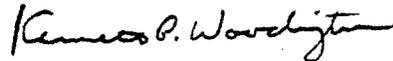
It is not clear precisely what the duties of the secretary of the law enforcement unit are, but for the purposes of this opinion it will be assumed that her duties are the usual duties of an assistant in a law enforcement office. These would include dispatching, and assistance in the registration and titling of boats and motors.

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The Wildlife Department has maintained for some time that the "purpose of water recreational resources" is served by actual physical improvements to water resources, such as boat ramps and connected facilities. This interpretation appears to be in accord with the literal language of § 12-27-390, which does not mention enforcement of game laws. It is therefore the opinion of this Office, based on the facts as assumed above, that funds in the Water Resources Recreation Fund may not be transferred to a purpose which is primarily in aid of law enforcement.

I regret that this conclusion cannot be more favorable.

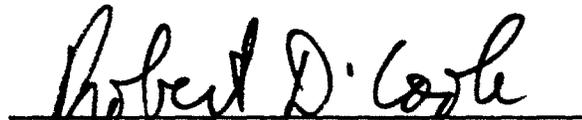
Sincerely yours,



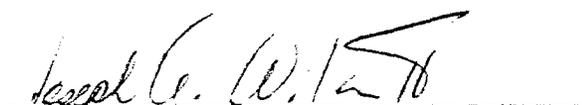
Kenneth P. Woodington
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