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# The State of South Carolina



Georgetown No 52-4  
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## Office of the Attorney General

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March 25, 1986

Jack M. Kendree, Executive Director  
Georgetown County Development Commission  
Post Office Box 698  
Georgetown, South Carolina 29442

Dear Mr. Kendree:

You have asked for advice as to whether a county council may contract with a county Chamber of Commerce to administer the expenditure of part of the county's accommodations tax funds. After a county deducts \$25,000 from such funds for county use, twenty-five percent of the balance can go to a Chamber of Commerce for tourism promotion. You are asking about the remaining seventy-five percent and who may administer the expenditure thereof.

The relevant provision of law as to allocation of funds received by a city or county is Section 12-35-720, Code of Laws of South Carolina (1985 Cum. Supp.). Part (1) (C) provides that the "remaining balance [seventy-five percent] received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures." The term "tourism-related expenditures" is defined by Section 12-35-720 to be

advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity; promotion of the arts and cultural events; construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for such facilities; the criminal justice system, law enforcement, fire protection,

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solid waste collection, and health facilities when required to serve tourists and tourist facilities; public facilities such as restrooms, dressing rooms, parks, and parking lots; tourist shuttle transportation; control and repair of waterfront erosion; and operating visitor information centers. In the expenditure of funds, county councils are required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county in which the proceeds of the tax are collected where it is practical.

...

Part (2) of Section 12-35-720 authorizes a county or municipality to issue bonds or enter into other financial obligations to carry out tourism-related expenditures as described above. Finally, part (3) requires a city or county to appoint an advisory committee to make recommendations on the expenditure of revenue generated by the accommodations tax; composition of the membership of the advisory committee is specified by this part of the statute.

With respect to your original question of whether a county council might contract with a Chamber of Commerce to administer the expenditure of the seventy-five percent as described above, "in essence serving as the advisory committee," we would advise that the advisory committee required by Section 12-35-720 (3) does not expend the funds; that committee only makes recommendations as to expenditure of the funds. This Office has noted that a Chamber of Commerce may be contracted with under Section 12-35-720 (1) (B) to manage and direct the expenditure of the first twenty-five percent of accommodations tax revenues after the initial \$25,000 is deducted. See Op. Atty. Gen. dated April 17, 1985. Your question is related to Section 12-35-720 (1) (C) funds, about which a different conclusion may be necessary.

While a county or city is required to select (or establish) an organization to manage and direct expenditure of the first twenty-five percent of revenues after the deduction of \$25,000 by Section 12-35-720 (1) (B), the county or city is directed by Section 12-35-720 (1) (C) to allocate the revenues to a "special fund" to be used for tourism-related expenditures. The county or city would be the appropriate body to authorize the issuance

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of bonds or to incur indebtedness, to establish a sinking fund or otherwise provide for debt service, to contract for the construction of facilities for civic or cultural activities, or otherwise contract for "tourism-related expenditures" as noted in the definition of the term as quoted above. As distinguished from promotional activities which may easily be contracted for, these activities appear to require provision of services either by a county or city, or by contracts to which a county or city governing body must be a party. Such matters as issuing bonds or entering into contracts necessary to construct a facility for the arts, for example, could not be delegated or contracted for by a city or county.

We would therefore advise that administration of the expenditure of the revenues under Section 12-35-720 (1) (C) should remain with a county council and not be contracted to a Chamber of Commerce. Of course, we recognize that a county council does not sign every check for every expenditure by a county and that some delegation to a county official or department or agency is necessary; contracting for administration of expenditure of accommodations tax revenues to a Chamber of Commerce would not be the same as delegation to a county officer, department, or agency, however. The administration of these funds should rest with the body which enters into contracts, creates indebtedness, or otherwise obligates the county or city.

You also asked whether one who is affiliated with a Chamber of Commerce may also serve on the advisory committee. The requirements for membership are specified in Section 12-35-720 (3):

The advisory committee shall consist of not less than five members with a majority of the committee members being selected from the hospitality industry of the municipality or county receiving the revenue and one member must represent the cultural organizations of the municipality or county receiving the revenue.

There is no provision within this statute which would prevent a person affiliated with a Chamber of Commerce from serving on a county's advisory committee, as long as the majority of members are selected from the county's hospitality industry and one member represents the county's cultural organizations.

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You advised that Georgetown County is merging the operations of the Georgetown Development Commission and the County Chamber of Commerce. No comment is intended herein as to the concept of such consolidation.

With kindest regards, I am

Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

*Robert D. Cook*

Robert D. Cook  
Executive Assistant for Opinions

cc: Sylvan Rosen, Georgetown County Attorney