

1983 WL 182011 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 28, 1983

***1 SUBJECT: Transportation, Public; State Agencies (Public Service Commission); Statutory Construction**

The Public Service Commission has no authority to regulate regional transportation authorities established under Section 58-25-10, et seq., South Carolina Code of Laws (1976).

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QUESTION:

Does the Public Service Commission have authority to regulate regional transportation authorities?

OPINION:

No. The Regional Transportation Authority Law, Sections 58-25-10, et seq., South Carolina Code of Laws (1976), authorizes the establishment of regional authorities to provide public transportation within certain geographic areas. Some of the powers and duties granted to these authorities by Section 58-25-50 are:

(a) To purchase, own, or operate or provide for the operation of transportation facilities;

(c) . . . to conduct studies;

(h) To fix, alter, change and establish rates, fares and other charges for the services and facilities within the area, which rates, fees, and charges shall be equitable and just;

(m) To develop transportation plans, and to coordinate its planning and programs with those of appropriate municipal, county, and State agencies and other political subdivisions of the State;

(o) To promulgate rules and regulations.

There is no provision in the Regional Transportation Authority Law making regional transportation authorities, when established, subject to the regulation and control of the Public Service Commission (P.S.C.).

The question arises, however, as to whether such control and regulation is required by Section 58-23-10, *et seq.*, South Carolina Code of Laws (1976), which provides for the regulation of motor vehicle carries by the P.S.C. [Section 58-23-20 of the Code](#) provides that the P.S.C. shall control, supervise, and regulate any 'corporation' or 'person' operating any motor vehicle for the transportation of persons or property for compensation on any improved highway in the State. 'Corporation' is defined as a 'corporation, company, association or joint stock association' and 'person' is defined as 'an individual, a firm or a copartnership.' [Section 58-23-10, South Carolina Code of Laws \(1976\)](#). It is evident that the definition of 'corporation' refers only to private corporations and not to public entities, such as municipalities, counties, or other bodies politic.¹

But even if the meaning of [Sections 58-23-10](#) and [58-23-20](#) were not clear and unambiguous, the same construction must be made of these sections for several reasons. First, the powers and duties to fix or approve rates, fares, charges, classifications and rules and regulations granted to the P.S.C. under Section 58-23-1010 would conflict with identical powers granted to regional transportation authorities as noted above. A primary rule of statutory construction is to give effect to all parts and provisions of a legislative enactment and to reconcile conflicts if reasonably and logically possible. *See, Adams v. Clarendon County School District No. 2*, 270 S.C. 266, 241 S.E.2d 879 (1978). In this instance, the statutes can be harmonized by construing [Section 58-23-10, et seq.](#), not to include regional transportation authorities within the regulatory authority of the P.S.C. Moreover, it should be noted that at the time [Section 58-23-10, et seq.](#), of the Code was first enacted in 1925, regional transportation authorities were not in existence, since the General Assembly first established these entities in 1973. *See, Act 417 of 1973*. If an irreconcilable conflict exists, under the 'last legislative expression' rule the authority and powers granted to regional transportation authorities in 1973 must prevail over the earlier provision. *See, Jolly v. Atlantic Greyhound*, 207 S.C. 1, 35 S.E.2d 42 (1945). Therefore, for the foregoing reasons, it is the opinion of this Office that regional transportation authorities are not under the regulation, control or supervision of the P.S.C.

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Footnotes

- 1 *See*, 18 Am.Jur.2d, [Corporations](#), § 2 (1965): 'But while the term 'corporation' may be sufficiently broad to include public entities, such as municipalities, counties, etc., yet as used in constitutions and statutes it has frequently been held to refer only to private corporations as distinguished from those which are purely public.'

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