

1979 WL 42898 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1979

***1 RE: Guidelines for PRT Tourism Funds Sharing Promotional Program**

Mr. Fred P. Brinkman
Executive Director
South Carolina Department of Parks, Recreation & Tourism
Suite 113, Edgar A. Brown Bldg
1205 Pendleton Street
Columbia, S. C. 29201

Dear Mr. Brinkman:

Your letter of March 9, 1979, to Attorney General McLeod concerning the referenced guidelines has been referred to me for reply. In your letter, you ask whether guidelines adopted jointly by the S. C. Parks, Recreation & Tourism Commission and the Joint Legislative Committee on Tourism and Trade must be filed with the Legislative Council for publication in the State Register in accordance with the provisions of Act No. 176 of 1977.

It is the opinion of this Office that these guidelines need not be filed with the Legislative Council for publication, in the State Register. [South Carolina Code Section 1-23-40\(1\)](#) requires that all regulations promulgated or proposed to be promulgated by State agencies which have general public applicability and legal effect must be filed with the Legislative Council and published in the State Register. The term 'regulation' is defined in Section 1-23-10(4) as 'each agency statement of general public applicability that implements or prescribes law or policy or practice requirements of any agency.' (emphasis added) The term 'agency' is defined in Section 1-23-10(1) as 'each state board, commission, department, executive department or officer, other than the legislature or the courts, authorized by law to make regulations or to determine contested cases.' (emphasis added) Construing sections 1-23-10(1) and 2-23-10(4) together, it is clear that statements from the legislature cannot, by definition, be 'agency statements'.

Section 5 of the permanent provisions of Act 644 of 1978 provides that the guidelines for the Funds Sharing Program '... shall be formulated by the Department (of Parks, Recreation & Tourism) and the joint committee on tourism and trade.' (emphasis added) Since the joint committee on tourism and trade is a committee of the legislature, any policy statements which it may issue are not 'agency statements'. Such statements, therefore, cannot by definition be 'regulations'. [Section 1-23-10\(4\) S. C. Code \(1976\)](#).

It is, therefore, the opinion of this Office that the guidelines adopted by the S. C. Parks, Recreation & Tourism Commission and the joint committee on tourism and trade need not be filed with the Legislative council and published in the State Register.

Very truly yours,

L. Kennedy Boggs
Assistant Attorney General

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