



HENRY McMASTER
ATTORNEY GENERAL

September 8, 2008

H.W. Funderburk, General Counsel
South Carolina Employment Security Commission
Post Office Box 995
Columbia, South Carolina 29202

Dear Mr. Funderburk:

We understand from your recent letter to Attorney General Henry McMaster that the South Carolina Employment Security Commission (the "Commission") received a request for a contribution from the Capitol Ministries Legislative Sports Classic Golf Tournament, which is represented as a 501(c)(3) organization. Accordingly, you request an opinion of this Office concerning "whether the Employment Security Commission is authorized under State law to expend funds for the purposes state in the donation request."

Law/Analysis

Chapter 29 of title 41 of the South Carolina Code governs the Employment Security Commission. Section 41-29-10 of the South Carolina Code (1986) states "[c]hapters 27 through 41 of this Title [the "South Carolina Employment Security Law"] shall be administered by the South Carolina Employment Security Commission." Furthermore, the provisions contained in chapter 29 set forth the duties and authority given to the Commission by the Legislature. Section 41-29-110 in particular sets forth the duties and powers of the Commission as follows:

The Commission shall administer Chapters 27 through 41 of this Title and it may adopt, amend or rescind such rules and regulations, employ such persons, make such expenditures, require such reports as are not otherwise provided for in such chapters, make such investigations and take such other action as it deems necessary or suitable to that end.

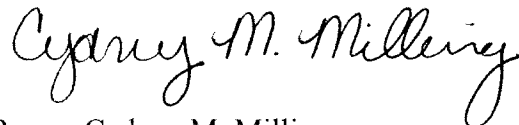
In addition, we found other provisions among sections 41-29-10 *et seq.* of the South Carolina Code providing the Commission with authority. However, we did not locate a provision allowing the Commission to make charitable donations.

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As the Commission is a creature of statute created by the Legislature, it possesses only such authority as is expressly conferred or necessarily implied by the Legislature. S.C. Coastal Conservation League v. South Carolina Dep't of Health and Envtl. Control, 363 S.C. 67, 610 S.E.2d 482 (2005). As we previously noted, the Commission does not have express authority to make charitable contributions. Furthermore, in our review of those powers expressly given to the Commission by the Legislature, we do not find a provision necessarily implying that the Commission may make such a donation. Accordingly, it is our opinion that the Commission is not authorized to make a donation to Capitol Ministries, or any other charitable organization.

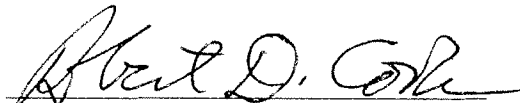
Very truly yours,

Henry McMaster
Attorney General



By: Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General