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The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

July 12, 1999

Joe Craven, Chief Ranger
Irmo Chapin Recreation Commission-Ranger Unit
200 Leisure Lane
Columbia, South Carolina 29210

Re: Informal Opinion

Dear Mr. Craven:

You have posed a question regarding whether Rangers employed by the Irmo-Chapin Recreation Commission possess arrest powers. By way of background, you state the following:

> Act 329 of 1969 that brought the Irmo Chapin Rec. Commission into being was amended by Act 182 of 1997 to allow the commission to have Rangers. Most of our cases will be heard in magistrate court. Our magistrate is Judge Hames. Judge Hames has requested from your office an opinion on our ranger unit's ability to make arrests, issue citations and otherwise act as police officers.
>
> Act 182 states: "To enforce the rules and regulations of the commission and the laws of this State and the ordinances of the county or any municipality within which any of its facilities are located and to commission, employ and train qualified law enforcement officers for this purpose."

REQUEST LETTER

Law / Analysis

The issue which you present is whether the statute itself purports to bestow upon the officers employed by the Recreation Commission law enforcement authority, or whether instead the statute simply enables the Commission to employ otherwise "qualified law enforcement officers for this purpose" - i.e., merely authorizes the Commission to hire law enforcement officers whose authority stems from some other source. In my opinion, the Rangers must have separate law enforcement authority from some other source of law because Act No. 182 does not itself provide law enforcement authority such as arrest powers.

Act No. 182 of 1997 provides as follows:

> Whereas, the Irmo-Chapin Recreation District was created to provide general recreation facilities to the area of Lexington County, within School District 5 in Lexington County; and
>
> Whereas, the district is governed by a commission which has been empowered, among other things, to prescribe rules and regulations governing the use of its facilities; and
>
> Whereas, in order to provide assurances of safety and the enforcement of its own rules and regulations, the General Assembly has determined that it is in the interest of the people within the district **to provide the commission the authorization to enforce its rules and regulations and the laws of the State and the ordinances of the county and any municipality within which any of the district's facilities are located**. Now, therefore,
>
> Be it enacted by the General Assembly of the State of South Carolina:
>
> Commission powers
>
> SECTION 1. Section 5 of Act 329 of 1969, as last amended by

> Act 1017 of 1974, is further amended by adding at the end:
>
> "(15) To enforce the rules and regulations of the commission and the laws of this State and the ordinances of the county or any municipality within which any of its facilities are located and to employ qualified law enforcement officers for this purpose."

(Emphasis added).

A number of principles of statutory construction are relevant to your inquiry. First and foremost, is the time-honored tenet of construction that the intent of the General Assembly must prevail in the interpretation of any statute. State v. Martin, 293 S.C. 46, 358 S.E.2d 697 (1987). A statutory provision should be given a reasonable and practical construction which is consistent with the purpose and policy expressed therein. Jones v. S.C. State Highway Dept., 247 S.C. 132, 146 S.E.2d 166 (1966). Words used in an enactment should be given their plain and ordinary meaning. Smith v. Eagle Const. Co., 282 S.C. 140, 318 S.E.2d 8 (1984). Moreover, exceptions contained in a statute give rise to a strong inference that no other exceptions were intended. Pa. Natl. Mut. Cas. Ins. Co. v. Parker, 282 S.C. 546, 320 S.E.2d 458 (S.C. App. 1984).

In addition, the following general rule must be considered:

> [i]n some cases, officers other than those who may be termed regular police officers, or officers with the regular duties of policemen, are, subject to certain limitations, authorized to make arrest without warrants; but, in the absence of any provision in the statute conferring such authority, a special officer has no greater authority to make an arrest without a warrant than is possessed by a private person . . . .

6A C.J.S., Arrest, § 17.

Applying this rule, we have concluded that no statute expressly authorizes a bailiff to make an arrest and thus such authority does not exist. Op. Atty. Gen. Op. No. 92-52 (September 11, 1992). See also, Op. Atty. Gen., May 28, 1979 [Horry County Police

Commission members possess only arrest authority as is granted to members of the general public because no statute provides any additional arrest power].

In Op. Atty. Gen., March 20, 1978, we concluded that a Probation counselor with the Family Court does not possess arrest authority. There, it was stated that the pertinent statute

> ... does not address the arrest power of the probation officer. It is the contention of this Office that if such authority is not specifically set forth it is not included. See State v. [Sachs], 216 S.E.2d 501.

In an Opinion, dated March 3, 1978, we expressed doubt as to "[w]hether or not the power to enact rules and regulations is sufficient in and of itself to authorize the employment of a litter officer, at least one with arrest powers . . . ." As an alternative, we opined that "[i]t may be that a county can appoint a litter officer and then that officer can apply to the Governor for a commission as a special deputy pursuant to Section 23-1-60 et seq., Code of Laws of South Carolina, 1976"

My reading the Act No. 182 of 1997 is that the Legislature sought simply to "provide the Commission the authorization to enforce its rules and regulations and the laws of the State and the ordinances of the county and any municipality within which any of the district's facilities are located." For "this purpose," the General Assembly authorized the Commission to "employ **qualified** law enforcement officers . . . ." Nothing in the Act, however, purports to bestow law enforcement authority, such as arrest powers, upon an employee of the Commission; instead, the Commission is authorized to employ persons who already possess law enforcement authority ["qualified" law enforcement officers].

Accordingly, it is my opinion that Act No. 182 of 1997 conveys no separate law enforcement authority (i.e., arrest powers) upon Irmo Chapin Recreation Commission employees. Such employees would have to be given arrest powers and other law enforcement provisions by separate authority. Examples of this would include statutes authorizing moonlighting by off-duty law enforcement officers, statutes relating to state constables and laws concerning private security guards.

Thus, if Rangers desire to possess law enforcement authority including arrest powers, such would have to derive from some independent source such as a state constableship. You

may wish to contact SLED regarding this matter.

This letter is an informal opinion only. It has been written by a designated Assistant Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

With kind regards, I am

Very truly yours,

Robert D. Cook
Assistant Deputy Attorney General

RDC/ph