



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

October 30, 1995

John G. Reich, Fire Marshal
Bureau of Fire Prevention
City of Columbia
1001 Senate Street
Columbia, South Carolina 29201

RE: Informal Opinion

Dear Mr. Reich:

You have sought an interpretation of law to clarify the powers of the State Fire Marshal within local municipalities. In particular, you are concerned about your enforcement powers within state-owned structures and your scope of responsibility. I will provide comments on the relevant law; I would strongly suggest that your office, perhaps with the assistance of the Legal Department of the City of Columbia, further discuss these matters with the Office of the State Fire Marshal, the State Engineer, and the Division of General Services of the Budget and Control Board of the State of South Carolina, to ensure coordination of services by all of the parties involved.

You may be aware that in the 1995-96 general appropriations act, the General Assembly added §10-1-180 to the Code of Laws of South Carolina, to codify on a permanent basis a proviso which had been in effect on a year-to-year basis previously. In relevant part, §10-1-180 provides:

In all construction, improvement and renovation of state buildings shall comply [sic] with the applicable standards and specifications set forth in each of the following codes: The Standard Building Code, The Standard Existing Building Code, The Standard Gas Code, The Standard Mechanical Code, The Standard Plumbing Code and The Standard Fire Prevention Code, all as adopted by the Southern Building Code Congress International,

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Inc.; and the National Electrical Code NFPA 70, The National Electrical Safety Code - ANSI-C2, The National Fire Protection Association Standard-NFPA 59, all with the code editions, revision years, and deletions as specified in the Manual for Planning and Execution of State Permanent Improvements. The State Engineer shall determine the enforcement and interpretation of all the aforementioned codes and referenced standards on state buildings. Any interested local officials shall coordinate their comments related to state buildings through the State Engineer and shall neither delay construction nor delay or deny water, sewer, power, other utilities, or firefighting services. Agencies may appeal to the Director of the Office of General Services regarding the application of these codes to state buildings. [Emphasis added.]

Furthermore, S.C. Code Ann. §6-9-110 provides as follows:

In no event may any county, municipal, or other local ordinance or regulation which requires the purchase or acquisition of a permit, license, or other device utilized to enforce any building standard be construed to apply to any state department, institution, or agency permanent improvement project, construction project, renovation project, or property.

This Code section was interpreted in City of Charleston v. South Carolina State Ports Authority, 309 S.C. 118, 420 S.E.2d 497 (1992), as follows:

Chapter 9 of Title 6 establishes a statutory scheme whereby local governments may adopt only certain listed building codes. Chapter 9 also establishes the South Carolina Building Code Council. The Council may approve or disapprove any deviations from the standard codes which local governments may adopt. Thus, the legislature had retained final approval of local building codes. Because the various codes which local governments may adopt and approved local variations differ, the legislature has exempted state agencies from the local codes. The state buildings are designed and approved at the state level under the building codes applicable to state buildings. ... [Emphasis added.]

309 S.C. at 121.

Clearly the State Engineer is to determine the enforcement and interpretation of the codes and standards listed in new §10-1-180 with respect to state buildings. As to enforcement powers with respect to code violations within state-owned property within

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the City of Columbia, such would fall to the State Engineer rather than to you as the resident fire marshal or chief fire inspector for the City of Columbia. Your authority instead would be related to fire-fighting responsibilities in state-owned property.

Your letter raises several questions about the jurisdiction of the State Fire Marshal, the State Engineer, and you as resident fire marshal and Chief Fire Inspector for the City of Columbia with respect to several different types of property located in the City of Columbia. Some of your questions, particularly concerning enforcement of applicable codes to state-owned property, are answered by the statutes cited above. The remainder of your questions should most probably be worked out by the State Fire Marshal, the State Engineer, the Division of General Services, and the City of Columbia. Such a cooperative venture, rather than an opinion of this Office detailing which office has the responsibility on which type of property, would better ensure complete fire protection and safety for the affected citizens and property.

This letter is an informal opinion only. It has been written by a designated Senior Assistant 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 kindest regards, I am

Sincerely,

Patricia D. Petway

Patricia D. Petway
Senior Assistant Attorney General

CC: Wayne Rush, Esquire