

## The State of South Carolina



## Office of the Attorney General

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December 9, 1991

The Honorable E. B. McLeod, Jr.  
Member, House of Representatives  
432-D Blatt Building  
Columbia, South Carolina 29211

Dear Representative McLeod:

You have asked whether funds disbursed by the State Treasurer to the Pinewood Hazardous Waste Contingency fund may be used to purchase an ambulance for the Town of Pinewood. It is the opinion of this Office that the expenditure is authorized by the applicable statute governing the Pinewood Hazardous Waste Contingency Fund, however, the decision to purchase an ambulance must be left to the discretion of the governing body of the Town of Pinewood.

The Hazardous Waste Contingency Fund appears to have been first authorized by the General Assembly in 1980 and is generated through the imposition of fees on the industries which benefit from the generation, transportation, and disposal of hazardous waste in this State. See 1980 Act No. 517 Part II, § 15A. The legislature, recognizing the tremendous expense of remedial actions which are necessary to restore hazardous waste sites, pledged "to allocate funds and personnel for the administration of programs exclusively designated to respond to the dangers inherent in the generation, transportation and disposal of waste." 1985 Act No. 140, § 1. The General Assembly, in order "to protect future generations from the financial devastation of disrupted hazardous waste burial sites and accidents involving hazardous materials," initially created the Hazardous Waste Contingency Fund to be maintained by the Department of Health and Environmental Control and later designated that a portion of the monies collected for this purpose should be returned to the governing body of any county in which is located a permitted commercial land disposal facility. See 1985 Act No. 140, § 6. The Fund provision was further amended in 1987 to also create the Pinewood Hazardous Waste Contingency Fund in order "to ensure the availability of funds for response actions necessary at the hazardous waste landfill located adjacent to the Town of Pinewood." See 1987

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Act No. 170 Part II § 29. It is about the Pinewood Fund which you inquire.

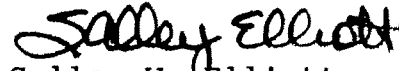
The pertinent portion of S.C. Code § 44-56-160(B), which governs the Pinewood Hazardous Waste Contingency Fund, provides that the monies collected for the Pinewood Fund shall be disbursed by the State Treasurer to the governing body of the Town of Pinewood. The statute also requires that any contingency fund money received by the Town of Pinewood must be used by the town's

... law enforcement, fire, health care, and emergency units to provide protection, assistance, and emergency preparedness for any contingency which might arise from the transportation and disposal site within the municipality ... (emphasis added).

The statute would require that the ambulance be used by Pinewood's law enforcement, health care, or emergency units to provide, within the town of Pinewood, any protection, assistance or emergency preparedness deemed necessary to respond to any contingency which could arise in connection with accidents which may occur during transportation or disposal of hazardous waste or with cleanup, containment, inspection or closure of the hazardous waste site. See S.C. Code Ann. §§ 44-56-160; 44-56-20(14)(Supp. 1990). The purchase of an ambulance appears to be consistent with the provision of health care assistance or emergency preparedness. Of course, the decision as to whether the ambulance is needed to respond to possible hazardous waste contingencies in Pinewood is one which must be made by the governing body of Pinewood. It is the opinion of this Office, however, that the expenditure would be authorized.

If I can provide additional information, please advise.

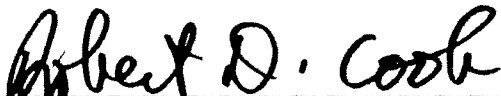
Sincerely,



Salley W. Elliott  
Assistant Attorney General

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REVIEWED AND APPROVED BY:



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Executive Assistant for Opinions