

The State of South Carolina

3511  
Library



Office of the Attorney General

T. TRAVIS MEDLOCK  
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING  
POST OFFICE BOX 11549  
COLUMBIA, S.C. 29211  
TELEPHONE 803-734-3680

February 17, 1989

Frances I. Cantwell, Esquire  
Assistant Corporation Counsel  
City of Charleston Legal Department  
Post Office Box 304  
Charleston, South Carolina 29402

Dear Ms. Cantwell:

Your recent letter has been referred to me. You have inquired whether or not a municipality with a population of less than 5,000 people would be included in a Regional Transportation Authority. As you have noted the question is not an easy one to clarify.

In 1985 the General Assembly substantially revised the provisions establishing the Regional Transportation Authority Law. In the original code provisions the terms "municipality" and "county" are defined. "City" is not defined nor is that term used in the old provisions. The 1985 revised provisions define the words "city", "county", "metropolitan government" and "municipality." The words "city" and "county" are used almost exclusively within the new provisions. The word "municipality" is used only three times; twice within one statutory provision exempting the authority from taxes to which municipalities are exempt, Section 8-25-80; and once in a statute regarding membership of the board, Section 58-25-40. The later provision provides the following language:

[t]he membership of the governing board must be apportioned among the member cities and counties proportionate to population within the authority's service area or the financial contribution to the authority by the member municipalities and counties.

This language is unusual in that there is no further provision in the statutes by which a municipality can make a financial contribution and be included in the authority.

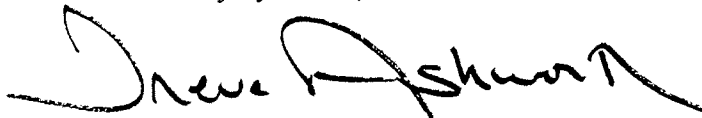
Frances I. Cantwell, Esquire  
February 17, 1989  
Page Two

However, it is possible that this is a reference to the authorities established under the previous laws which did authorize municipalities to be included in the authorities.

The use of the words "cities" and "municipalities" within the same sentence in Section 58-25-40 and in a context which clearly distinguishes the two words, clearly indicates as does the statutory definitions, that the legislature intended a municipality with a population of less than five thousand to be treated differently than a city of over five thousand population. In a February 28, 1986, opinion of this office, a copy of which is enclosed, some aspects of this question are discussed. At page 5 and 6 of that opinion it is stated that "[c]onceivably some small 'cities' of under five thousand persons could be excluded from membership [in an authority] once the old RTAs are completely within the new Section 58-25-40."

Although, as the 1986 opinion also pointed out, legislative clarification would be useful on this point, it would appear that the legislature contemplated the authorities would be made up of "cities" and "counties". The only possible indication that the legislature provided for "municipalities" under the demarcation line for the population of five thousand to be included, is found at Section 58-23-40(1). However, there is no accompanying procedure for the municipality to financially contribute and thereby join the authority.

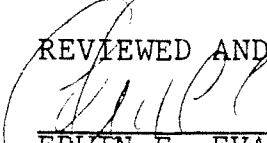
Sincerely yours,



Treva G. Ashworth  
Senior Assistant Attorney General

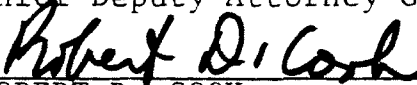
TGA:byc

REVIEWED AND APPROVED BY:



---

EDWIN E. EVANS  
Chief Deputy Attorney General



---

ROBERT D. COOK  
Executive Assistant for Opinions