

The State of South Carolina



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Edgar Dyer, Esquire
118 Citadel Drive
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Dear Ed:

Horry County Council has requested an opinion with respect to the following question. Can a county (or political subdivision) own and operate a railroad? You have advised that it is your conclusion as attorney for the council that such is permitted by state law. We concur in your conclusion. 1/

Section 4-9-30(6) Code of Laws of South Carolina, 1976 as amended, authorizes counties

... to establish such agencies, departments, boards, commissions and positions in the county as may be necessary and proper to provide services of local concern for public purposes ...

Clearly, the operation of a transportation service such as a rail line would constitute "services of local concern for public purposes". In addition, Section 4-9-30(5) authorizes counties

... to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided and make appropriations for functions and operations of the county, including but not limited to, appropriations for ... transportation (emphasis added) ...

1/ We understand that the Interstate Commerce Commission has issued an opinion that no federal law or regulation precludes ownership and operation of a line of railroad by political subdivision of a state.

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It would appear that since county council is authorized to appropriate funds and levy taxes in support of transportation projects or services, such would clearly authorize counties to operate a railroad line.

One other provision of law should be considered. Article VIII, Section 16 of the South Carolina Constitution provides that

(a)ny council or consolidated political subdivision created under this Constitution may, upon a majority vote of the electors voting on the question in such county or consolidated political subdivision acquire by initial construction or purchase and may operate water, sewer, transportation or other public utility systems and plants other than gas and electric ... (emphasis added)

This provision also appears in certain instances to authorize the acquisition by a county or municipality or other political subdivision of a railroad or other transportation service.^{2/}

I hope this advice is helpful to you. If I can be of further assistance, please let me know.

With kind regards, I remain

Very truly yours,


Robert D. Cook
Executive Assistant for Opinions

RDC:sds

^{2/} Article X, § 11 precludes the State or its political subdivisions from becoming "a joint owner of a stockholder in any company, association or corporation." You have not suggested that the county is jointly operating the railroad with a private company.