

# The State of South Carolina



## Office of the Attorney General

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October 2, 1989

The Honorable E. LeRoy Nettles, Jr.  
Member, House of Representatives  
Post Office Box 699  
Lake City, South Carolina 29560

Dear Representative Nettles:

By your letter of September 7, 1989, you have advised that the act establishing the Florence City-County Agricultural Commission provides that the Commission has the authority to borrow money with the consent of Florence City Council and the Florence County Legislative Delegation. In view of the adoption of the Home Rule Act (Act No. 283 of 1975), you have asked whether Florence County Council rather than the Delegation would be the more appropriate body to consent to such borrowing, along with Florence City Council. For the reasons following, it may be possible to change the aforementioned law by ordinance of Florence County Council to place the approval authority with Florence County Council.

The Florence City-County Agricultural Commission ("Commission") was established pursuant to Act No. 750, 1950 Acts and Joint Resolutions, as amended by Act No. 710 of 1952. Section 3 of Act No. 750 authorizes the Commission to borrow in various ways, "provided the same be approved by the full Commission, the Legislative Delegation of Florence County or a majority thereof including the Senator at the time, and the City Council of the City of Florence... ." The 1952 amendment does not affect this provision.

Section 3 of the Home Rule Act provides that

All operations, agencies and offices of county government, appropriations and laws related thereto in effect on the date the change in form becomes effective shall remain in full force and effect until otherwise implemented by ordinance of the council pursuant to this act. Provided, however, that county councils shall not

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enact ordinances in conflict with existing law relating to their respective counties and all such laws shall remain in full force and effect until repealed by the General Assembly, or until January 1, 1980, whichever time is sooner,...

Because Act Nos. 750 of 1950 and 710 of 1952 are local in nature, Florence County Council would be authorized, after January 1, 1980, to enact an ordinance in conflict with these acts concerning the Commission. Graham v. Creel, 289 S. C. 165, 345 S.E. 2d 717 (1986). Florence County Council could thus adopt an ordinance by which it, rather than the Florence County Legislative Delegation, would approve the Commission's borrowing.

This Office opined previously that Florence County Council would be authorized, after January 1, 1980, to adopt an ordinance modifying local legislation relative to the Florence City-County Airport Commission. Enclosed is a copy of the opinion dated June 12, 1980. Due to the similarity of the two commissions, the reasoning in that opinion would be applicable to the Florence City-County Agricultural Commission.

In conclusion, we advise that the Florence County Council would be authorized to adopt an ordinance, if it so desires, to modify the local legislation adopted by the General Assembly concerning the Florence City-County Agricultural Commission, to have Florence County Council rather than the Florence County Legislative Delegation approve any borrowing by the Commission.

With kindest regards, I am

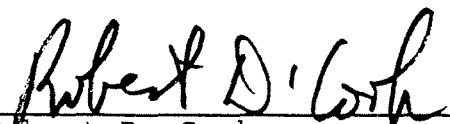
Sincerely,

*Patricia D. Petway*

Patricia D. Petway  
Assistant Attorney General

PDP/nnw  
Enclosure

REVIEWED AND APPROVED BY:



Robert D. Cook  
Executive Assistant for Opinions

cc: Peter D. Hyman, Esquire  
Florence County Attorney