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Opinion No. 85-1
7-17

Office of the Attorney General

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ATTORNEY GENERAL

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July 12, 1985

Benjamin D. Moore, Esquire
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Florence, South Carolina 29502-2012

Dear Mr. Moore:

By your letter of June 24, 1985, you have requested the opinion of this Office as to whether the Pee Dee Regional Transportation Authority would be permitted to provide limousine service and baggage service for airport passengers and airlines. You have researched the matter and have concluded that provision of such service would be authorized by the state laws governing regional transportation authorities. Generally this Office concurs with your conclusion but would suggest additional considerations if such a plan should be undertaken.

Powers and duties of regional transportation authorities are specified by Section 58-25-50, Code of Laws of South Carolina (1976), as amended by Act No. 169 of 1985. Among these powers and duties are the following:

- (a) Purchase, lease, own, or operate or provide for the operation of transportation facilities;
- (b) Contract for public transportation services;
- (c) Plan in concert with any appropriate local planning operation for public transportation services;

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REQUEST LETTER

Continuation Sheet Number 2
To: Benjamin D. Moore, Esquire
July 12, 1985

(e) Contract with other governmental agencies, private companies, and individuals;

* * *

(j) Establish public transportation routes and approve the alteration or addition of routes based primarily on a detailed analysis or proposed use and comprehensive cost analysis;

(k) Acquire and operate, or provide for the operation of, transportation systems, public or private, within the area, the acquisition of a system to be by negotiation and agreement between the authority and the operator of the system to be acquired;

* * *

(q) Do all acts necessary for the provision of public transportation services; ...

These powers give regional transportation authorities great latitude in the provision of public transportation services. Nowhere does Section 58-25-50, as amended, appear to prohibit such services. Furthermore, Section 58-25-20(10) of the Code, as amended, defines "public transportation" to include freight (i.e., baggage) delivery as a service concomitant to the transportation of human passengers. Thus, we agree with your conclusion that state law relative to regional transportation authorities would permit (or at least not prohibit) such airport transportation service.

We would point out that problems potentially exist with respect to the use of federal grant monies to provide such services. The use of federal funds to provide vehicles, maintenance costs, and so forth most probably would not be questioned if such transportation is provided for the purpose of general public transportation services; examples would be a fixed route bus operation or a demand-response system in which passengers requested transportation a day in advance. Rules and regulations promulgated under the Urban Mass Transit Assistance Act, 49 U.S.C. §§ 1601 et seq., should be considered in this regard, particularly where the transportation authority will be competing against the private sector. The Transportation

Continuation Sheet Number 3
To: Benjamin D. Moore, Esquire
July 12, 1985

Division of the Governor's Office may be able to assist you in determining which regulations may apply to the Pee Dee Regional Transportation Authority.

Consideration might also be given to keeping books separately for the vehicles used for airport transportation if a "taxi" system is contemplated, as well as making that system self-supporting. In the event a private transportation carrier filed a complaint with appropriate federal or state authorities, records would then be available to show the extent to which, if any, federal or state funds have been used in provision of this service.

We understand that the regional transportation authority in Beaufort and Jasper counties provides transportation to the airport in Savannah, Georgia. You may wish to consult with the officials of this authority to determine how they worked with federal laws and regulations to provide this service.

In conclusion, we concur with your conclusion that such transportation may be provided under state law. We advise further study of applicable federal statutes and regulations to insure compliance therewith and lessen the possibility of complaints from the private sector.

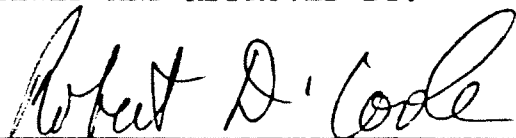
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:



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Executive Assistant for Opinions