

1980 WL 120698 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 6, 1980

\*1 Mrs. Barbara W. Moxon  
South Carolina Commission on Women  
2221 Devine Street, Suite 307  
Columbia, South Carolina 29205

Dear Mrs. Moxon:

You have recently asked this Office for its opinion about two proposed projects which might be considered to be ultra vires acts by the Commission. The first inquiry is whether the Commission may publish a Newsletter which includes announcements of conferences or workshops of private organizations which have taken active positions for or against the Equal Rights Amendment to the United States Constitution. The second question is whether the Commission may present awards to radio and television stations for outstanding programs concerning the rights, responsibilities and status of women.

One legal authority states:

Generally speaking, state officers, boards, commissions, and departments have such powers as may have been delegated to them by express constitutional and statutory provisions, or as may properly be implied from the nature of the particular duties imposed on them. These powers cannot be varied or enlarged by usage or by administrative construction. Executive and administrative officers, boards, departments, and commissions have no powers beyond those granted by express provision or necessary implication. 81A C.J.S., States, § 120, p. 542.

According to the statute creating the Commission on Women, [Section 1-15-10, et seq., 1976 Code of Laws of South Carolina](#), the Commission is directed to make periodic reports concerning women's right and status to the Governor, to disseminate material concerning the rights, responsibilities of women and to spend funds to further the Commission's objectives. [Section 1-15-40, 1976, Code of Laws of South Carolina](#), as amended.

It is the opinion of this Office that the Commission may publish a Newsletter which announces conferences and workshops concerning the status of women because such an endeavor is authorized by the General Assembly's directive to disseminate information concerning the rights, responsibility and status of women.

Your letter inquired whether it would be permissible for the Newsletter to include announcements of conferences and workshops concerning the Equal Rights Amendment since the Commission has agreed in a consent order dated November, 23, 1976, and signed by Jasper M. Cureton, Master-in-Equity for Richland County, not to promote or to oppose the ratification of the Equal Rights Amendment. It is the opinion of this Office that the consent order has been sapped of any vitality since the statute that it was premised upon—Section 9-451, [et seq., Code of Laws of South Carolina \(Cum. Supp. 1975\)](#) which limited the Commission's duties to making reports to the Governor—has been amended. The statutory amendment now titled, [Section 1-15-40\(2\), 1976, Code of Laws of South Carolina](#), requires the Commission to disseminate information concerning women.

With regard to the Broadcast Awards Project, it is the opinion of this Office that although there is no explicit statutory authority for presenting such awards, the legislation which imposes the duty of disseminating information concerning women upon the Commission confers a sufficiently broad general power so that the privilege of making such awards as an attempt to encourage the news media to broadcast programs concerning women may be inferred from the Commission's duty to disseminate information.

\*2 A board or commission on which the legislature confers broad general powers is invested with discretion in choosing the means and methods of accomplishing the result expected, and, in the absence of fraud or manifest abuse of that discretion, its determination is conclusive. 81A C.J.S., States, § 120, p. 543.

Your letter did not describe what the nature of the Broadcast Awards would be. As noted in a previous opinion issued by this Office, '[e]very expenditure of money or of any thing of value by a governmental agency must be for a purpose authorized by law and any such expenditure must be for a public purpose.' 1961 Op. Atty. Gen. 168 (Op. No. 1097). '[I]n order to sustain a public purpose the advantage occurring to the public must be direct, not merely indirect or remote.' [Caldwell v. McMillan](#), 224 S.C. 150, 157, 77 S.E.2d 798, 801 (1953). It is assumed that the awards would be certificates, plaques of nominal value, etc. and not substantial cash awards.

Sincerely yours,

Barbara J. Hamilton  
State Attorney

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