

1977 S.C. Op. Atty. Gen. 174 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-233, 1977 WL 24575

Office of the Attorney General

State of South Carolina

Opinion No. 77-233

July 22, 1977

*1 TO: C. M. Compton
Chairman
Richland-Lexington Airport Commission

QUESTION PRESENTED:

Is Section 14–3221, of the Code of Laws of South Carolina, 1962, as amended by 1971 Acts and Joint Resolutions 1081, violated if the law partner of a Richland County State Senator serves as attorney for the Richland-Lexington Airport Commission?

STATUTES, CASES, ETC.

Code of Laws of South Carolina, 1962, as amended, Section 14–3221;

1971 Acts and Joint Resolutions 1081;

[Kleckley v. Pulliam](#), 265 S.C. 177, 217 S.E.2d 217 (1975);

[Targerson v. Craver](#), 267 S.C. 558, 230 S.E.2d 228 (1976).

DISCUSSION OF ISSUES:

Section 14–3221 of the 1962 Code, as amended by 1971 Acts and Joint Resolutions 1081, reads in pertinent part as follows: Provided, however, that no member of the governing body or of the county legislative delegation, or any partner of any such member, shall be retained as county attorney or assistant county attorney, or perform any service for compensation as an attorney for the governing body, county legislative delegation, any county agency which is funded in whole or in part from county funds, or for any board, commission, committee or agency of the county over which the governing body or county legislative delegation has any appointive powers.

The question presented is whether the Richland-Lexington Airport District is a ‘county agency which is funded in whole or in part from county funds,’ or whether it is ‘an agency of the county over which the governing body or county legislative delegation has any appointive powers.’

Section 55–11–310 of the 1976 Code creates the Richland-Lexington Airport District:

§ 55–11–310. Richland-Lexington Airport District created. The territory embraced by the counties of Richland and Lexington is hereby constituted an airport district and a political subdivision of this State, the functions of which shall be public and governmental, and the inhabitants of the territory are hereby constituted a body politic and corporate. The corporate name of the airport district shall be Richland-Lexington Airport District, and by that name the airport district may sue and be sued.

The status of the Richland-Lexington Airport District was considered in [Kleckley v. Pulliam](#), 265 S.C. 177, 217 S.E.2d 217 (1975), wherein the Supreme Court upheld the constitutionality of an Act of the General Assembly authorizing the District to issue general obligation bonds. The Court held that the District was not an agency of any one county, as follows:

The record here clearly establishes that the function of this airport is not peculiar to a single county or counties. To a large segment of the population of this State, the maintenance of the airport is as important as the existence of an interstate highway. It, therefore, follows that since the governmental purpose under the Act establishing the District is not one peculiar to a county, the powers of the General Assembly to legislate for this purpose continues, despite Article VIII, Section 7, [217 S.E.2d at 221](#).

*2 The [Kleckley](#) case construed the meaning of the term 'of counties,' as that term is used in Article VIII, Section 7 of the South Carolina Constitution (which prohibits the General Assembly from enacting laws for a specific county), as follows:

The mandate by its express terms relates only to 'counties' and does not relate to legislation dealing with the 'powers, duties, functions, and the responsibilities' which are not 'of counties.'

The [Kleckley](#) case was cited with approval but distinguished in [Targerson v. Craver](#), 267 S.C. 558, 230 S.E.2d 228 (1976), where the Court held that the Charleston County Airport District was an agency of that county. The Charleston County Airport District was contrasted to the Richland-Lexington Airport District as follows:

In [Kleckley](#) . . . it was absolutely impossible for either the governing body of Richland County or Lexington County to provide for the bond issue. There was involved a matter with which only the General Assembly could deal. The bond legislation was not for a specific county, it was for a region (emphasis added). [230 S.E.2d at 230](#).

Clearly then, the terms 'county agency' and the 'agency of the county,' refer to agencies concerned with the functions of one county only. Therefore, an agency concerned with functions of several counties, and supplying services to a large segment of the State's population, cannot be considered an agency of one county.

The Richland-Lexington Airport District is not an 'agency of the county.' The fact that the District may receive funds from Richland County and may have members appointed upon the recommendation of the Richland Delegation does not trigger the prohibitions of Section 14-3221.

CONCLUSION:

Section 14-3221 of the South Carolina Code is not violated if the law partner of a Richland County State Senator serves as attorney for the Richland-Lexington Airport Commission.

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