

1978 WL 35181 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 23, 1978

*1 Peter D. Hyman, Esquire
Florence County Attorney
Post Office Box 1770
Florence, South Carolina 29503

Dear Mr. Human:

You have requested an opinion from this Office as to whether or not the Florence County Council (Council) is authorized to make a grant of county funds to the Town of Olanta which will then give the funds to a private ambulance company franchised by that Town to supply ambulance service therein. In my opinion, the Council most probably cannot make such an appropriation as hereinafter discussed.

First, my understanding is that Florence County itself provides county-wide ambulance service, including service to all cities and towns therein. This being so, an appropriation of county funds to be used to finance a service already being provided by the county would most probably constitute an improper appropriation because the funds would be used for a private rather than a public purpose. That is, while it is true that a county can contract with and, thus, grant money to a private concern to provide a service which the county is authorized to provide [cf., [Bolt v. Cobb](#), 225 S.C. 408, 82 S.E.2d 789; 10 McQUILLIN MUNICIPAL CORPORATIONS § 29.08 (revised ed. 1966)], in this case, the funds would be used to duplicate the service which the county provides.

Although it has long been settled in this State that the General Assembly may authorize a county to impose a tax and appropriate the same to another political entity to fund a public purpose [[Allen v. Adams](#), 66 S.C. 344, 44 S.E. 938, (Town of Edgefield issued bonds to help school district of the Town of Edgefield build a school building); [Smith v. Robertson](#), 210 S.C. 99, 41 S.E.2d 631, (Charleston County issued bonds to buy site for medical college); [Cothran v. Mallory](#), 211 S.C. 387, 45 S.E.2d 599, (Spartanburg County and City of Spartanburg jointly built auditorium); [Shelor v. Pace](#), 151 S.C. 99, 148 S.E. 726, (Oconee County issued bonds for school purposes); [Grey v. Vaigneur](#), 243 S.C. 604, 135 S.E.2d 229, (Jasper County issued bonds for school district); [Stackhouse v. Floyd](#), 248 S.C. 183, 149 S.E.2d 437, (Dillon County issued bonds for school district); [Gilbert v. Bath](#), 267 S.C. 171, 227 S.E.2d 177 (Florence County donated \$1,000,000 to Pee Dee Regional Health Service District to build hospital)], the holdings of those cases may be altered by certain amendments to the South Carolina Constitution of 1895, as amended. The main uncertainty involves the meaning of the provisions of new Article VIII, Sections 7 and 13 and new [Article X, Section 6 of the South Carolina Constitution](#). While it is true that the provisions of Article VIII, Section 13 authorize the 'joint' administration of any function and the sharing of the costs thereof by political subdivisions in South Carolina, that language might not be construed to include what amounts to a donation on the part of one political subdivision to another entity, especially where the donor already performs the function. In this connection, note the comments of Governor West's Study Committee which drafted the original language of Article VIII, Section 13, to wit:

*2 To meet the needs of the future, the Committee feels that many regional approaches will have to be used. Therefore, this section intends to make it clear that the Constitution authorizes such arrangements when duly established by law. More significantly, perhaps, this section specifically permits the General Assembly to provide for cooperative financing of intergovernmental projects. See, Final Report of the Committee to Make a Study of the South Carolina Constitution of 1895, Comments to Section N at 91.

Moreover, for the first time, [Article VIII, Section 7](#) and [Article X, Section 6](#) authorize a county to tax different areas at different rates depending upon special services and benefits received. This authorization might be construed to mean that from now on a county is to provide needed services on less than a county-wide basis and is to tax therefor at different rates instead of helping to finance the provision of those services by another political subdivision, by it a municipality, a special purpose district or a school district. This situation is, as I understand it, the one which obtains in Florence County, i.e., the county does provide the ambulance service and provides it county-wide. The only factor which could make a difference would be if the ambulance service were not being provided by the county prior to March 7, 1973, and such service were being provided by the Town of Olanta within its corporate limits or such service had been budgeted or funds applied for as certified by that municipal governing body. In that case, the county could not provide ambulance service within Olanta without the concurrence of Olanta's governing body. See, § 4-9-30(5), CODE OF LAWS OF SOUTH CAROLINA, 1976.

The answer to the question addressed herein is one which is certainly not free from doubt and one which can be definitively determined only by judicial resolution pursuant to the Uniform Declaratory Judgments Act [[§§ 15-53-10 et seq.](#), [CODE OF LAWS OF SOUTH CAROLINA](#), 1976].

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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