

1974 WL 27690 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 1, 1974

\*1 Mr. Fred C. Craft  
Director  
Disaster Preparedness Agency  
1429 Senate Street  
Columbia, South Carolina 29201

Dear Mr. Craft:

You have asked this office to advise you with regard to your authority as Director of the Disaster Preparedness Agency to enter into an agreement on behalf of the State with officials of the United States Army relative to the building of a pontoon bridge from the mainland to Hilton Head Island. The need to construct a temporary structure of this nature arose several days ago due to the accidental destruction of the James F. Byrnes Bridge which heretofore was the sole connecting link between the island and the mainland.

Inasmuch as Hilton Head now lies isolated from the remainder of the State, Governor John C. West by an Executive Order and Proclamation dated March 28, 1974, has declared that a state of emergency now exists on the island. The authority for this order is found in Section 44-312, South Carolina Code of Laws (1962), as amended, otherwise known as the 'State Civil Defense and Disaster Control Law.' As defined therein, 'disasters' include public calamities and the Governor in discharging his responsibility to minimize the injuries and damages resulting from such occurrences has been vested with the authority to suspend provisions of existing regulations prescribing procedures for conduct of State business, to utilize all available resources of State government, to transfer the direction, personnel or functions of State departments and to control ingress and egress at disaster areas. Section 44-312.

The Governor's Executive Assistant and Chief Advisor in disaster emergencies is the Director of the Disaster Preparedness Agency. He is in charge of co-ordinating the functions of the various State agencies, counties and municipalities in such emergencies. Section 44-316. As Director of an agency of the State government, he is also responsible for assuming direction and control of local operations when 'the nature or magnitude of a disaster is such that effective response and recovery action is beyond local government's capability . . . ' Section 44-317(1)(C).

This enumeration of delegated powers and responsibilities means nothing if it does not mean that the Director of the Disaster Preparedness Agency can enter into the agreements necessary to obtain the services needed to minimize and repair the injury and damage resulting from disasters. In [Beard-Laney, Inc. v. Darby](#), 213 S.C. 380, 49 S.E. 564 (1948), the South Carolina Supreme Court held ' . . . it is not to be doubted that [a governmental body] possesses not merely the powers which in terms are conferred upon it, but also such powers as must be inferred or implied in order to enable the agency to effectively exercise the express powers admittedly possessed by it.' 213 S.C. at 389. The Disaster Control Law authorizes 'extraordinary actions of government' only in those situations where the Governor has declared that a state of emergency exists. A decision to that effect has been made with regard to the isolation of Hilton Head Island and it is the opinion of this office that you, as Director, may enter into an agreement authorizing the construction of a temporary bridge by the United States Army in order to re-connect the island with the mainland.

\*2 If we can be of further assistance to you in this matter, please feel free to call upon us.  
Sincerely,

Dudley Saleeby, Jr.  
Assistant Attorney General

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