

1973 WL 26693 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 3, 1973

\*1 Hon. James Waddell  
Senator  
Beaufort County  
State House  
Columbia, South Carolina

Dear Senator Waddell:

You have inquired as to the constitutionality of an act which proposes to vest in the State its agencies, and subdivisions the authority to contract with the United States Government to hold the United States Government safe and harmless against damages done, cause to be done and from any claim or demand whatsoever for such damages suffered by or done to any property on which work is being performed for the State, its subdivisions or agencies by the United States Government.

It has been my opinion that neither the State nor its agencies or subdivisions have the authority to obligate themselves to this extent without express legislative authority.

It is my opinion, however, that if the South Carolina General Assembly determines it is in the public interest to vest in the governing bodies the authority to contract as stated above, the General Assembly may do so and is not prohibited from doing so by the South Carolina Constitution.

In the latter part of 1972 I conferred with Col. Robert Nelson about the need for the legislation which is the subject matter of your inquiry.

I enclose a copy of a letter dated December 21, 1972 from Col. Nelson explaining the need for the adoption of an act allowing the State its subdivisions, and agencies to execute contracts with hold harmless provisions.

Yours truly,

Daniel R. McLeod  
Attorney General

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