

The State of South Carolina



Office of the Attorney General

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December 22, 1994

The Honorable A. Crawford Clarkson, Jr.
Chairman, Department of Revenue and Taxation
301 Gervais Street
Columbia, South Carolina 29201

Dear Mr. Clarkson:

You have requested the opinion of this Office as to the meaning of the term "aircraft" in proviso 129.50 of Act No. 497 of 1994, the 1994-95 Appropriations Act. We understand that the Patriot's Point Development Authority wishes to purchase from the Yorktown Association a salvaged United States Navy aircraft to be used as a non-flying display; a replica engine has been substituted for the actual engine, the once-moving parts have been welded, and the aircraft is not capable of flight.

Proviso 129.50 provides the following:

No aircraft will be purchased or leased or leased-purchased for more than a 30 day period for any state agency without the authorization of the State Budget and Control Board and the Joint Bond Review Committee.

The question is whether an aircraft which is to be a museum display, which is incapable of flight, comes within the definition of "aircraft" so that the authorizations required by Proviso 129.50 must be obtained.

In construing any statute, the primary objective of both the courts and this Office is to ascertain and effectuate legislative intent if it is at all possible to do so. Bankers Trust of South Carolina v. Bruce, 275 S.C. 35, 267 S.E.2d 424 (1980). Language used in a statute should be given its plain and ordinary meaning. Worthington v. Belcher, 274 S.C. 366, 264 S.E.2d 148 (1980). The terms of a statute are "to be read and understood

according to the natural and obvious meaning and import of the language, without resorting to subtle and forced construction for the purpose of either limiting or extending their operation." Weston v. Board of Commissioners of Police Ins. and Annuity Fund, 196 S.C. 491, 494, 13 S.E.2d 600 (1941). Moreover, "the statute as a whole must receive a practical, reasonable and fair interpretation consistent with the purpose, design and policy of the lawmakers." Id.

In The American Heritage Dictionary, Second College Edition, at page 89, the term "aircraft" is defined as a "machine or device, including airplanes, helicopters, gliders, and dirigibles, capable of atmospheric flight." It is observed that the General Assembly has defined the term more broadly in S.C. Code Ann. §§ 55-3-20, 55-5-20(2), and 55-8-10; however, each of these Code sections makes it clear that the definition (or definitions) to follow apply only for the purposes of the respective chapters of Title 55. In other sections of Title 55, it is readily apparent that the term "aircraft" is intended to mean some sort of machine or device which is capable of flight; for examples, see §§ 55-9-30 (establishing airports for the use of aircraft); 55-13-10 (making rules and regulations re hazards to aircraft); 55-1-10 (liability of owners or operators transporting guests in aircraft); 55-1-50 (as to landing aircraft on public highways); 55-1-90 (using state-owned aircraft for emergencies); 55-1-100 (operating as pilot or crew of aircraft while under the influence of alcohol); and the like.

While we have not located any materials in our research which would provide official guidance as to legislative intent, it is our understanding that the proviso in question (in its present form since 1985¹) was adopted to curb possible abuses of state agencies' aircraft, purchasing of aircraft by state agencies without going through a central office or procedure, duplication of costly equipment (aircraft here) by various state agencies, and the like. Assuming that our understanding is correct, it would appear that the proviso is intended to be applicable to aircraft capable of being flown rather than to an aircraft which is incapable of flying and which will be used for a museum display.

Consistent with the foregoing rules of statutory construction, it is the opinion of this Office that the term "aircraft" in Proviso 129.50 of Act No. 497 of 1994 is intended to

¹ See Act No. 164 of 1993, proviso 129.54; Act No. 501 of 1992, proviso 129.58; Act No. 171 of 1991, proviso 129.29; Act No. 612 of 1990, proviso 129.28; Act No. 189 of 1989, proviso 129.28; Act No. 658 of 1988, proviso 129.28; Act No. 170 of 1987, proviso 129.30; Act No. 540 of 1986, proviso § 160 of Part I; Act No. 201 of 1985, proviso § 161 of Part I; see also Act No. 512 of 1984, proviso § 155 of Part I as to the form of the proviso as it existed prior to the 1985 amendment.

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refer to aircraft capable of flight and not to an inoperable airplane which will be displayed as a museum exhibit.

With kindest regards, I am

Sincerely,

Patricia D. Petway

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Assistant Attorney General

PDP/an

REVIEWED AND APPROVED BY:

Robert D. Cook

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