

6053 February



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
ATTORNEY GENERAL

October 1, 1996

The Honorable C. Tyrone Courtney
Senator, District No. 13
604 Gressette Building
Columbia, South Carolina 29202

Re: Informal Opinion

Dear Senator Courtney:

By your letter of September 19, 1995, you have sought an opinion as to whether the Croft Fire District is a political subdivision of the State for the purposes of Title 8, Chapter 7, S.C. Code Ann. (1995 Supp.).

As stated in your letter, § 8-7-20 and § 8-7-90 authorize military leaves of absence for "[e]very employee of the State or any political subdivision thereof" Accordingly, the question of this statute's applicability to employees of the Croft Fire District depends upon whether this entity is considered a political subdivision of the State. For the reasons set forth below, it is my opinion that it is.

First, as you can see from the enclosed opinions dated February 20, 1979, May 22, 1980 and March 17, 1981, the previous and frequently reiterated position of this Office is that fire districts are political subdivisions of the State. The Croft Fire District was established pursuant to Act No. 879 of 1960, as amended by Act Nos. 177 of 1961 and 1956 of 1972. Moreover, as was the case in the enclosed examples, the Croft Fire District's Commissioners are appointed by the Governor and its function is to provide fire protection and related services within its boundaries. Additionally, the District's enabling legislation vests it with the power "[t]o buy such fire fighting equipment as the board deems necessary for the purpose of controlling fires within the money allocated or made available to the board for such purposes." Section 5(h) authorizes the Board to borrow in anticipation of taxes. Then, section 6 provides:

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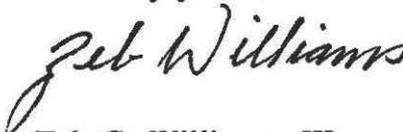
The Auditor and Treasurer of Spartanburg County are hereby directed to levy and collect a tax of not more than two mills, to be determined by the Board of Fire Control upon all the taxable property of the district for the purpose of defraying the expenses incurred by the board. All monies collected from this levy shall be credited to the fire district.

Furthermore, according to the South Carolina Retirement System, the Croft Fire District is a political subdivision of the State and is a participating employer in the State system. And finally, § 8-7-90 specifies that its provisions are to be "construed liberally to encourage and allow full participation in all aspects of National Guard and reserve programs of the Armed Forces of the United States" (Emphasis added.)

Thus, based on the foregoing as well as the prior opinions of this Office, it is my opinion that the Croft Fire District is a political subdivision of the State and that its employees are covered under the statutes regarding military leaves of absence located at Title 8, Chapter 7, S.C. Code Ann. (1995 Supp.).

This letter is an informal opinion only. It has been written by a designated Deputy Attorney General and represents the position of the undersigned attorney as to the specific questions asked. It has not, however, been personally scrutinized by the Attorney General nor officially published in the manner of a formal opinion.

Sincerely yours,



Zeb C. Williams, III
Deputy Attorney General

ZCW,III/an
Enclosures

cc: Mr. David L. Mullinax
(w/ enclosures)