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The State of South Carolina



Office of the Attorney General

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June 5, 1990

The Honorable J. Yancey McGill
Senator, District No. 32
508 Gressette Building
Columbia, South Carolina 29202

Dear Senator McGill:

By letter of May 16, 1990, you have advised that a highway improvement project is underway on the County Line Road, which runs between Georgetown and Williamsburg Counties and adjacent to the municipal limits of Andrews. At the beginning of the project, the Town of Andrews was advised that the Town would be required to sign an agreement to move the Town's water and sewer lines, the estimate for that work being between \$3,500 and \$7,500. It has since been discovered that part of the water system is an asbestos water line, the removal or repair of which will be in excess of \$125,000 for materials and labor. The Town of Andrews has had unexpected expenses in conjunction with damage from Hurricane Hugo and has no funds to remove this line.

By our opinion to you dated May 30, 1990, we advised as to use of "C" funds for removal of the water lines. You have further asked about the use of a proviso in the annual appropriations act to permit "C" funds to be used in this extraordinary and exigent circumstance, specifically the impact of such a proviso on the statute relative to expenditure of "C" funds, Section 12-27-400 of the South Carolina Code of Laws.

We have not examined the proviso which would be made a part of the appropriations act; thus, our interpretation is confined to the legal principles involved when a proviso, added to the appropriations act, is or appears to be inconsistent with a general statute and has the effect of redirecting taxes collected for one purpose to another purpose.

The Honorable J. Yancey McGill
Page 2
June 5, 1990

This Office has previously concluded that, in case of conflict between a provision of the annual appropriations act and an inconsistent general law, the provisions of the appropriations act would have the effect of suspending the provisions of the conflicting general law. Enclosed is a copy of an opinion of this Office dated October 10, 1989, discussing these principles in greater detail and citing relevant legal authorities.

As applied to your question, a proviso in the annual appropriations act redirecting the proceeds of gasoline taxes commonly called "C" funds, and therefore being inconsistent with provisions of Section 12-27-400, would have the effect of suspending the provisions of Section 12-27-400 to the extent of irreconcilable conflict.

We trust that the discussion of applicable legal principles herein and in the enclosed opinion will adequately respond to your inquiry. If we may assist you further, please advise.

With kindest regards, I am

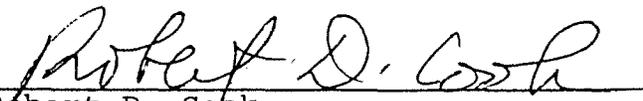
Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP/nw
Enclosure

REVIEWED AND APPROVED BY:


Robert D. Cook
Executive Assistant for Opinions