

THE STATE OF SOUTH CAROLINA  
OFFICE OF THE ATTORNEY GENERAL  
COLUMBIA

OPINION NO. \_\_\_\_\_

October 6, 1989

SUBJECT: Taxation and Revenue - Borrowing by Clarendon County in anticipation of a federal grant.

SYLLABUS: A county may incur indebtedness in anticipation of a federal grant as provided by Article X, Section 14(10) of the South Carolina Constitution and Chapter 19 of Title 11 of the Code of Laws of South Carolina, 1976.

TO: Honorable Margaret D. Jackson  
Clarendon County Treasurer

FROM: T. Travis Medlock *T.T.M.*  
Attorney General of South Carolina

QUESTION: May Clarendon County incur indebtedness in anticipation of a federal grant?

APPLICABLE LAW: Article X, Section 14(10) of the South Carolina Constitution, Sections 11-27-20 and 11-27-40(7) and Chapter 19 of Title 11 of the Code of Laws of South Carolina, 1976.

DISCUSSION:

Property of the county was extensively damaged by Hurricane Hugo and will require substantial expenditures to repair. A grant will be made to the county by the Federal Government through the Federal Emergency Management Agency. 50 App. 2281 (U.S.C.A.) You advise, however, that the county must first make the repairs and will need to borrow funds for that purpose pending receipt of the federal grant. Your inquiry is whether or not the county may borrow such funds and if so, the procedure therefor.

Article X, Section 14, provides the manner and procedure under which a county may incur debt.

Subsection 10 of the Section provides in part that the county may incur:

October 6, 1989

"Indebtedness payable solely from a revenue-producing project or from a special source, which source does not involve revenues from any tax or license, may be issued upon such terms and conditions as the General Assembly may prescribe by general law; . . ."

The General Assembly has provided in Chapter 19 of Title 11 authority for the county to incur "indebtedness in anticipation of a federal grant." That Chapter and the constitutional provisions set forth the required terms and conditions for the indebtedness. It may be evidenced by a note or written obligation, the grant must be pledged for repayment, the debt must mature when the grant is expected to be received, the debt cannot exceed ninety percent of the estimated amount of the grant, the written note or obligation must contain a statement on its face specifying the source of payment and that the full faith, credit and taxing power of the county are not pledged therefor. Under Section 11-19-40 the obligation may be issued by negotiation or by bid.

Chapter 19 of Title 11 was enacted prior to the amendments to Article X. The General Assembly has in Section 11-27-20 carried forward the provisions that are not in conflict with the Article. Additionally, Section 11-27-40(7) specifically provides that:

"All laws now in force permitting any political subdivisions to incur indebtedness (and to issue bonds or other evidences of debt) which shall be payable solely from a revenue-producing project or from a special source, which source does not involve revenues from any tax or license, shall continue in force and effect after the ratification date. Evidences of such indebtedness shall contain a statement on the face thereof specifying the sources from which payment is to be made and shall state that the full faith, credit and taxing powers of the issuer are not pledged therefor. Any law containing any provisions inconsistent herewith (including Chapter 19 of Title 11, as amended) is herewith amended by the removal therefrom of such inconsistent

October 6, 1989

provisions."

It is thus clear that the General Assembly has carried forward the provisions of Chapter 19 of Title 11 with the added conditions as set forth by Article X, Section 14(10).<sup>1</sup> A debt may be incurred in anticipation of a federal grant.

CONCLUSION:

A county may incur indebtedness in anticipation of a federal grant as provided by Article X, Section 14(10) of the South Carolina Constitution and Chapter 19 of Title 11 of the Code of Laws of South Carolina, 1976.

TTM:wcg

-----  
<sup>1</sup>The opinion herein is based upon settled rules of construction that the words of a statute are to be given their plain meaning and effect in the absence of an absurd result or a clear ambiguity. (For cases see 17 S.C.D., Statutes, Key 188, et seq.)