

1981 WL 158006 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 8, 1981

*1 Honorable Raymond Caughman
Chairman
S.C. Family Farm Development Authority
Room 411
Marion Gressette Office Building
Columbia, South Carolina

Dear Mr. Caughman:

At the request of Mr. John Foley, we have examined the Resolution adopted by your Authority at its meeting on October 6, 1981, and the provisions of Title 46, Chapter 47, of the Code of Laws of 1976 as amended, which establish the Authority and provide its functions and duties.

As indicated by the Resolution the Agriculture Study Committee headed by Senator Garrison has been allocated certain funds by the General Assembly to assist the Authority in commencement of its program development; and the Authority wishes to retain the services of John Foley as its Director of Research and program Development. It is the opinion of this Office that the Agriculture Study Committee may expend its funds for this purpose, either by transferring the funds directly to the account of the Authority or by lending Mr. Foley's services to the Authority.

Whether your Authority and the Study Committee determine to transfer the funds for the payment of Mr. Foley's salary, or simply for the Committee to lend his services to the Authority, no legal complication is involved. There is no dual office-holding question as he would be an employee and not an officer in either position. Likewise, there is no dual employment problem, as employees of the General Assembly are not affected by the dual employment agreement requirements which apply when a State employee works for more than one State agency in the executive department.

Looking to the future, we would suggest that questions concerning the payment of per diem and expenses of the Authority would best be solved by a direct transfer from the Study Committee to the Authority of an agreed sum sufficient to cover per diem, travel and other expenses of the Authority for the remainder of this fiscal year. The Comptroller General can then establish appropriate account numbers and instructions to Mr. Foley as to payment of these expenses and accounting for the funds. In addition, your Authority should immediately submit a budget request to the State Budget and Control Board for the operating funds which you will require for fiscal year 1982-83. If you will have Mr. Foley contact the State Auditor's Office, they will supply the appropriate forms for this purpose.

If you have further questions, do not hesitate to call upon us.

Sincerely,

Frank K. Sloan
Deputy Attorney General

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