

1977 WL 37019 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

August 1, 1977

*1 Ladson F. Howell, Esquire
Beaufort County Attorney
Post Office Box 112
Beaufort, South Carolina 29902

Dear Mr. Howell:

You have requested an opinion from this Office as to whether or not the Beaufort County Council is authorized to provide general county funds to Hilton Head Hospital, a private, eleemosynary corporation, to be used for the payment of interest on the latter's bonded indebtedness. In my opinion, it is not so authorized.

I am enclosing copies of two recent opinions issued by this Office which concern the use of public funds by private bodies. Both opinions discuss at length the pertinent case law in South Carolina on the subject, including the most recent one, [Gilbert v. Bath](#), 267 S.C. 171, 227 S.E.2d 177 (1976). The fact that, in [Gilbert](#), in [Bolt v. Cobb](#), 225 S.C. 408, 82 S.E.2d 789 (1954), and in [Battle v. Willcox](#), 128 S.C. 500, 122 S.E. 516 (1924), all of which cases upheld the use of public funds by private hospitals, the hospitals involved were owned by public entities is, to this office, a critical factor and the one which distinguishes those authorities from the proposal with which you are faced. Another important distinction might very well be that those authorities approved the use of public funds for the construction and operation of hospitals whereas the instant matter involves assistance for the payment of already incurred obligations. [Cf., Jacobs v. McClain](#), 262 S.C. 425, 205 S.E.2d 172 (1974).

I understand that the provision of general county funds to Hilton Head Hospital is conditioned upon the grant to Beaufort County Council of the authority to appoint the members of the Hospital's board of trustees. Whether or not the proposed nexus would be sufficient to make the grant permissible is a matter which will, no doubt, eventually be resolved by litigation; until the State Supreme Court speaks, however, I think that its past decisions are the only certain guidelines for determining the Hilton Head Hospital question. Those decisions have all involved public ownership of the hospital facilities in controversy.

In any event, I would suggest the declaratory judgment route [§§ 15-53-10 *et seq.*, CODE OF LAWS OF SOUTH CAROLINA, 1976] as the only means by which a definitive resolution of your question can be achieved.

With kind regards,

Karen LeCraft Henderson
Assistant Attorney General

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