

1978 WL 34908 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 15, 1978

***1 SUBJECT: Public Funds, Hospitals**

Funds of the Colleton County Hospital Sinking Fund can only be used for the retirement of Hospital Notes.

Senator William T. Howell
720 Walter Street
Walterboro, South Carolina

QUESTION PRESENTED:

Whether funds from the Colleton County Hospital Sinking Fund may be used to purchase equipment for the hospital and to meet other current hospital expenses?

CITATION OF AUTHORITIES:

Act No. 650 of 1969;

Act No. 728 of 1971;

[Section 11-15-20, S. C. Code](#), 1976; and

[Section 11-15-210, et seq., S. C. Code](#), 1976.

DISCUSSION:

On or about March 18, 1971, the Treasurer of Colleton County executed Notes in the sum of Three Hundred Thousand and no/100 (\$300,000.00) Dollars to obtain funds for permanent improvements to the Colleton County Hospital. This was done pursuant to Act No. 650 of 1969 and Act No. 728 of 1971 which authorized the issuance of the Notes for that purpose. Even though these obligations of the county are denominate 'Notes', they would nevertheless come within the definition of 'Bonds' in [Section 11-15-20 of the South Carolina Code of Laws](#), 1976:

'Bonds' shall include general obligations of the issuer and obligations of the issuer payable in whole or part from any special fund or other source, any part of which is expressed to mature more than twelve months from the date thereof but shall not include obligations in anticipation of the collection of taxes or in anticipation of the issuance of bonds.

The Resolution of the Colleton County Treasurer, dated on or about March 18, 1971, provides in Section 9 for the creation of a sinking fund to hold taxes levied to pay off the Notes 'separate and distinct from all other funds, and shall be used solely for the purposes for which levied and collected.' See, [Section 11-15-210, et seq.](#), Code of Laws of South Carolina, 1976. Since clearly the purpose of the tax levy and the deposit of these funds into a sinking fund was to provide funds for the prompt payment of principal and interest on the Notes, the covenant in the Resolution of the Colleton County Treasurer would prevent the use of these funds for any purpose other than the payment of principal and interest

on the Colleton County Hospital Notes. In this regard, [Section 11-15-240 of the Code](#) provides similarly that sinking fund investments:

shall be kept separate and distinct and properly earmarked with or registered in the name of the particular sinking fund to which they are applicable and shall be used for no other purpose and kept until such time before the maturity of the bonds for which the sinking is established as it may be necessary to sell or collect them in order to meet such obligations at maturity.

CONCLUSION:

Funds of the Colleton County Hospital Sinking Fund can only be used for the retirement of Hospital Notes and cannot be used for the purchase of equipment for the hospital.

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