

1976 S.C. Op. Atty. Gen. 284 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4428, 1976 WL 23045

Office of the Attorney General

State of South Carolina

Opinion No. 4428

August 20, 1976

*1 Employees of the Charleston County Aviation Authority are not employees of the State, and therefore would not be included under the State Health Insurance Plan.

TO: Jack S. Mullins, Ph.D.
Director
State Personnel Division

QUESTION PRESENTED

(1) Is the Charleston County Aviation Authority a State agency?

(2) Are the employees of the Authority State employees?

STATUTES, CASES, ETC., INVOLVED:

Act #1235, Acts and Joint Resolutions of 1970, which creates the Charleston County Aviation Authority.

Act #237, Acts and Joint Resolutions of 1975 at page 375—‘The Appropriations Act.’

§§ 61–1(4)(e) and 61–37, Code of Laws of South Carolina, 1962, as amended—‘The State Retirement Act.’

DISCUSSION OF ISSUES:

Act #1235 of 1970 clearly states that the Airport District is ‘a political sub-division of this State,’ (Section 2), as the Charleston County Aviation Authority readily admits. See letter of Robert H. Waddle, Director of Airports, to Dr. Jack S. Mullins. It has the right to raise its own funds through bonds approved by the General Assembly and through fees. It has control over expenditure of its own funds and they are kept in Charleston County banks rather than in the State general fund. Its employees do not in any way come under the State Classification and Compensation Plan, but are under the ‘Rules and Regulations of the Authority’ (Section 5). The sole provision providing health insurance for State employees and public school employees is found in the Appropriations Act which reads in pertinent part as follows:

That the amounts appropriated under Item VI of this Section for ‘Health Insurance-State Employees’ and ‘Health Insurance-public School Employees’ shall be applied by the Budget and Control Board to the cost of providing group health, life, accidental death and dismemberment and disability insurance for active and retired employees of the State and the public school districts of South Carolina and their eligible dependents in accord with such plans as may be determined by the Board to be equitable and of maximum benefit to those covered.

I am not aware of any provision which allows employees of political sub-divisions such as counties, municipalities, water and sewage districts, or airport districts, to be covered under the State plan. There is no question that they are public employees and receive funds from public sources. As such, they may come in under the State Retirement Act (Sections

61-1(4)(e) and 61-37) which specifically provide for the inclusion of such employees. However there is no corresponding provision for State health insurance.

CONCLUSION:

The Charleston County Aviation Authority should not be included under the State health insurance, in that its employees are not State employees as contemplated by the Appropriations Act.

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