

**From:** Foster, Sally <SFoster@dew.sc.gov>  
**To:** Mottel, HaleyHaleyMottel@gov.sc.gov  
Veldran, KatherineKatherineVeldran@gov.sc.gov  
Baker, JoshJoshBaker@gov.sc.gov  
**Date:** 2/2/2016 9:14:41 AM  
**Subject:** FW: H.4690- Joint Resolution concerning the DEW building in Union.

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Haley,  
Per out conversation last night. Thanks!  
Sally

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**From:** Wells, Agnes - ETA [mailto:wells.agnes@dol.gov]  
**Sent:** Monday, February 01, 2016 10:46 AM  
**To:** Foster, Sally  
**Cc:** Baker, Maura; Johnston, Robert - ETA; Fadler, Randy - ETA  
**Subject:** RE: H.4690- Joint Resolution concerning the DEW building in Union.  
**Importance:** High

Good morning Sally,

Thank you for your patience as we formulated a response to your inquiry about South Carolina House Bill (HB) 4690, which was introduced on January 19, 2016. HB 4690 is a Joint Resolution that would, in part, provide:

Notwithstanding Section 1-11-58 of the 1976 Code, or any other provision of law, the Department of Administration is directed to transfer ownership of the Employment and Workforce building located at 440 North Duncan Bypass, Union, South Carolina 29379, to Union County.

The bill does not provide for any payment by Union County (or any other entity) for the property.

HB 4690, if enacted, would be inconsistent with Federal law requirements applicable to real property dispositions. It is our understanding from discussions with staff of the South Carolina Department of Employment and Workforce that the building in question was purchased by South Carolina using Federal grant funds. One hundred percent (100%) of the equity in the building was Federal equity.

In 2007, Section 193 of the Workforce Investment Act of 1998 (WIA) was amended by the Revised Continuing Appropriations Resolution, 2007, Pub. L. 110-5. That amendment transferred all Federal equity in state real property acquired either wholly or partially through grant funds awarded under the Wagner-Peyser (W-P) Act or Title III of the Social Security Act. It provided also that the disposition proceeds from the sale of any properties on or after February 15, 2007, are to be used solely for program activities authorized under WIA, unemployment compensation, and W-P. The relevant language from that provision states—

Any disposition of such real property shall be carried out in accordance with the procedures prescribed by the Secretary and the portion of the proceeds from the disposition of such real property that is attributable to the Federal equity transferred under this section shall be used to carry out activities authorized under this Act, the Wagner-Peyser Act, or title III of the Social Security Act.

Training and Employment Guidance Letter (TEGL) No. 3-07 was issued by to provide the “procedures prescribed by the Secretary” as required by the statute. As such, the requirements of TEGL No 3-07 must be followed in the state’s disposition of the property in Union.

TEGL No. 3-07 provides that for property containing transferred federal equity which the state continues to use, but no longer for SWA purposes—

a state must have it appraised to assess its current fair market value. The cash equivalent of the fair market value attributable to the portion of the property amortized using UC and W-P grant funds must be used solely for program activities authorized under WIA, W-P, or UC.

This means that when the state ceased using the Union property for UC, Wagner-Peyser, or WIA purposes, it was required to procure an appraisal of fair market value and use the cash equivalent of that value for authorized program purposes. There is no indication that South Carolina did so.

TEGL No. 3-07 also provides for the sale of the property—

If the property is sold, the sales proceeds attributable to that portion of the property amortized using UC and W-P grant funds must be used solely for program activities authorized under WIA, W-P, or UC. . . . If the sold property has any Reed Act equity, the sales proceeds attributable to that portion of the property must be returned to the state's account in the UTF.

In a similar situation in 2013 arising in another state, DOL advised that the fair market value requirement also applies to sale of the property.

Regardless of the type of disposition here, the TEGL does not provide for the disposition of the property by way of transfer free of charge to the county; thus, the state may not do so because it does not meet the requirements of TEGL No. 3-07.

We hope this information is helpful. We would be happy to provide technical assistance to South Carolina to ensure that the disposition of the Union property is accomplished in a manner consistent with Federal law. If you require a formal opinion on this matter, you may write to Gay Gilbert at the address located at the bottom of this e-mail. Please note that formal opinions do take some time to prepare.

*Agnes Wells*

UI Program Specialist  
USDOL-ETA-OUI-DL State Conformity and Compliance Team  
200 Constitution Avenue NW  
Room S-4524  
Washington, DC 20210  
(202) 693-2996  
(202) 693-2874 fax

Any advice provided in this e-mail represents an informal staff-level opinion. If you would like a formal opinion, please write Gay Gilbert, Administrator, Office of Unemployment Insurance, 200 Constitution Avenue NW, Room S-4524, Washington, DC 20210.