

The State of South Carolina

3152
Library



Attorney General
T. TRAVIS MEDLOCK

Attorney General
Columbia

April 4, 1988

The Honorable Charlie G. Williams
State Superintendent of Education
South Carolina Department of Education
Rutledge Building
Columbia, South Carolina 29201

Dear Dr. Williams:

You have requested the opinion of this Office as to whether the Department of Education (Department) must implement a revised "index of taxpaying ability" (index) for the 1987-88 fiscal year because of a revision made in that index by the Tax Commission. See §59-20-20(3) of the Code of Laws of South Carolina, 1976. This index is used to compute the amount of local revenue that each school district must provide for the funding of the Education Finance Act (EFA), and the amount of State revenue that each district will receive. §59-20-40(e) and (f). According to the information that you have provided, school budgets for this fiscal year have already been adopted based upon the earlier index. To use the revised index now to determine the required local revenue contribution for the present fiscal year would, according to your letter, alter the required amounts of local and State revenue for some school districts and create "severe" losses.

The provision in question reads as follows:

"The index shall be determined annually on or before February first by the Tax Commission on the basis of the most current sales ratio data available based on studies made pursuant to Section 12-43-250 of the Code for assessed property within a school district." (Emphasis added).

The following rules of statutory construction are applicable here because of the absence of express direction in the statutes pertain-

The Honorable Charlie G. Williams

April 4, 1988

Page 2

ing to your question:

"In the construction of statutes the dominant factor is the intent, not the language of the Legislature.... A statute must be construed in light of its intended purposes, and if such purpose can be reasonably discovered from its language, the purpose will prevail over the literal import of the statute...." Spartanburg Sanitary Sewer District v. City of Spartanburg, 283 S.C. 67, 321 S.E.2d 258 (1984).

Generally, statutes in pari materia [pertaining to the same subject] should be construed together and reconciled, if possible, so as to render both operative. Lewis v. Gaddy, 254 S.C. 66, 173 S.E.2d 376 (1970)." Ops. Atty. Gen., (July 12, 1985); see also, Sutherland Statutory Construction, Vol. 2A, §51.02.

Here, although no express time limit is placed upon the opportunity given to school districts in §59-20-20(3) to request a hearing for the review of the indexes, construing the February first index determination deadline with reference to both the beginning of the fiscal year on July 1, and the requirement that school districts have balanced budgets (Art. X §7, Constitution of South Carolina) indicates that a legislative intent that a revision in the index not be used to alter the apportionment of the State and local EFA contributions in the middle of a fiscal year. The severe, unexpected loss of money that would result from a recalculation of funding would be inconsistent with the intent expressed in the EFA for the distribution of funding over the fiscal year pursuant to a formula. §59-20-40 and Act 190 §30.12, Acts and Joint Resolutions of South Carolina, 1987.

Moreover, according to the information provided by you, the Department has historically interpreted the above provisions as not authorizing the implementation of a revision in the index for funding purposes. Because the Department is charged with the development of formulas to determine the apportionment of State and local funding under the EFA with the approval of the State Board of Education and the Budget and Control Board (Act 170 §30.12), that construction must be "...accorded the most respectful consideration and will not be overruled absent compelling reasons." Dunton v. South Carolina Board of Examiners in Optometry, 291 S.C. 221, 353 S.E.2d 732 (1987). Therefore, construing all of these statutory provisions together with the administrative interpretation of them indicates that the State Department of Education is not authorized

The Honorable Charlie G. Williams
April 4, 1988
Page 3

to revise the apportionment of State and local funding based upon
the mid-year change in the indexes.

Yours very truly,



T. Travis Medlock
Attorney General

TTM/srcj