

The State of South Carolina



Office of the Attorney General

T. TRAVIS MEDLOCK
ATTORNEY GENERAL

REMBERT C. DENNIS BUILDING
POST OFFICE BOX 11549
COLUMBIA, S.C. 29211
TELEPHONE 803-758-3970

June 12, 1985

The Honorable Addison G. Wilson
Senator, District No. 23
Suite 606, Gressette Office Building
Columbia, South Carolina 29202

Dear Senator Wilson:

By your letter of May 27, 1985, you have asked for the opinion of this Office as to the following situation:

If a budget bill were not passed by the Legislature and there was no extension of the deadline, would the budget from the previous year be maintained?

Based on the following, we must advise that the budget from the previous year would not, in most instances, be maintained. The exceptions would be those provisions found in Act No. 512, 1984 Acts and Joint Resolutions, which were specifically intended to be carried forward into fiscal year 1985-86. 1/

We would note that appropriations must be made on a yearly basis. 2/ Article X, Section 8 of the State Constitution provides that "[m]oney shall be drawn from the treasury of the

1/ See, for example, Act No. 512 of 1984, proviso following Section 3K27 (p. 2249, third paragraph), Section 4 (p. 2259, last paragraph), Section 5D (pp. 2269 and 2270, several paragraphs).

2/ The title of Act No. 512 of 1984 indicates that it is intended to cover the period of fiscal year 1984-85, beginning July 1, 1984. The title, an indicia of intent, indicates the annual nature of the appropriations act. See University of South Carolina v. Elliott, 248 S.C. 218, 149 S.E.2d 433 (1966).

REQUEST LETTER

Continuation Sheet Number 2
To: The Honorable Addison G. Wilson
June 12, 1985

State ... only in pursuance of appropriations made by law." See also Article X, Section 7 as to annual taxes and estimates of annual expenses. Similarly, Section 11-9-10 of the Code of Laws of South Carolina provides:

It shall be unlawful for any moneys to be expended for any purpose or activity except that for which it is specifically appropriated, and no transfer from one appropriation account to another shall be made unless such transfer be provided for in the annual appropriation act. [Emphasis added.]

Section 11-9-20 of the Code makes it unlawful for a disbursing officer to disburse funds in excess of the amounts appropriated or for a purpose other than that for which the funds were appropriated. Considering these statutory and constitutional provisions, we would advise that an annual appropriation and budget would be anticipated and that no authority would exist to follow the budget from the previous year since funds would not have been appropriated for that or any other budget to be followed. In other words, further action by the General Assembly would be required.

We trust that the foregoing has adequately responded to your inquiry. Please advise if we may provide additional assistance or clarification.

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:djg

REVIEWED AND APPROVED BY:

Robert D. Cook
Robert D. Cook
Executive Assistant for Opinions