

1984 S.C. Op. Atty. Gen. 118 (S.C.A.G.), 1984 S.C. Op. Atty. Gen. No. 84-48, 1984 WL 159855

Office of the Attorney General

State of South Carolina

Opinion No. 84-48

May 1, 1984

*1 Gerald C. Smoak, Esquire
Colleton County Attorney
Post Office Drawer 581
Walterboro, South Carolina 29488

Dear Mr. Smoak:

By your letter of March 19, 1984, you have asked whether expenses (in the form of salaries paid to county employees) incurred by a county during one fiscal year may be paid from funds allocated during the succeeding fiscal year. By your letter and also your memorandum dated April 20, 1984, you have referred to [Section 4–9–140, CODE OF LAWS OF SOUTH CAROLINA \(1983 Cum. Supp.\)](#), which designates the fiscal year for counties. You have concluded that each fiscal year has to stand on its own and that all payments for a particular fiscal year must be made during that year with funds appropriated for that particular year. We agree with your conclusion.

Enclosed please find prior opinions of this Office dated November 15, 1983, and February 22, 1982, addressing similar questions as they relate to contracting by a county and by a state agency. Of particular importance in these opinions and in the situation discussed in your letter would be [Article X, Section 8 of the Constitution of the State of South Carolina](#), which states that '[m]oney shall be drawn from . . . the treasury of any of [the State's] political subdivisions only in pursuance of appropriations made by law.' See also [Section 11–1–40 of the CODE](#), which states in part that

[i]t shall be unlawful for any public officer, State or county, authorized to so contract, to enter into a contract for any purpose whatsoever in a sum in excess of the tax levied or the amount appropriated for the accomplishment of such purpose or to divert or appropriate the funds arising from any tax levied and collected for any one fiscal year to the payment of any indebtedness contracted or incurred for any previous year. . . . [Emphasis added.]

Considering these statutes, constitutional provisions, and the abundant authority cited in the two enclosed opinions, we would agree with your conclusion that expenses, such as salaries to be paid to county employees, incurred by a county during one fiscal year, may be paid only from funds appropriated for that particular year.

We trust that this letter and the enclosed opinions will satisfactorily resolve the issue. If you need clarification or additional assistance, please advise this Office.

Sincerely,

Patricia D. Petway
Staff Attorney

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