

1983 WL 181799 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 16, 1983

**\*1 SUBJECT: Taxation and Revenue—Disposition of School District Funds in Excess of Budget Expenditures**

State law provides for the carry forward of school district funds that are in excess of budgeted appropriations to the next fiscal year. The Dorchester County Council is without authority to modify this requirement.

James A. Bell, Esquire  
Dorchester County Attorney

QUESTION:

Can the Dorchester County Council direct the county treasurer to hold in escrow the amount of tax collections that exceed the amount appropriated in a school district's budget?

APPLICABLE LAW:

Article X, § 7(b) and [§ 8 of the South Carolina Constitution](#); Act 59, Acts of 1931; §§ [59-69-250](#) and [59-73-80 of the 1976 South Carolina Code](#) of Laws.

DISCUSSION:

[Article X, § 7\(b\)](#) requires each school district to prepare and maintain an annual budget. The pertinent language is that:

‘\* \* \* each school district \* \* \* shall prepare and maintain annual budgets which provide for sufficient income to meet estimated expenses for each year. \* \* \*.’

[Section 8 of the Constitution](#) provides that money shall be drawn from the treasury of any political subdivision only in pursuance of appropriations made by law.

The Constitution thus requires that the budget be prepared, maintained and the funds expended as therein appropriated.

Act 59, Acts of 1983, provides the procedure for the school districts in Dorchester County to follow for the preparation and maintenance of the budget. It precludes approval and payment of any claim in excess of the amount of the budget.

[Section 59-69-250 of the 1976 Code](#) of Laws provides that:

‘The county treasurer shall carry forward all sums in his hands collected for any previous year or years for school purposes and unexpended to the next fiscal year and credit the same to the school districts respectively, for which they were apportioned. He shall report such sums to the county superintendent of education.’

Section 4-9-70 provides in part that:

'The provisions of this chapter (Home Rule) shall not be construed to devolve any additional powers upon county councils with regard to public education \* \* \*.'

[Section 59-69-250](#) is therefore controlling with respect to school district funds in excess of those budgeted that are in the custody of the county treasurer. The Dorchester County Council is without authority to alter or modify the provisions of the section.

CONCLUSION:

State law provides for the carry forward of school district funds that are in excess of budgeted appropriations to the next fiscal year. The Dorchester County Council is without authority to modify this requirement.

Joe L. Allen, Jr.  
Deputy Attorney General

COMMENT:

[Section 59-73-80](#) relates to a tax levy that is voter approved. It is assumed for purposes of this opinion that the tax herein referred is not one provided by Chapter 73 of Title 59.

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