

1984 WL 249851 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 2, 1984

*1 The Honorable James L. Solomon, Jr.
Commissioner
South Carolina Department of Social Services
Post Office Box 1520
Columbia, South Carolina 29202

Dear Commissioner Solomon:

You have requested our advice concerning the interpretation of [Section 44-6-10 et seq. of the Code of Laws of South Carolina](#) (1976 as amended). You wish to know which positions, if any, of the following divisions of the South Carolina Department of Social Services are engaged in the actual delivery of health and human services to the extent that their transfer to the Health and Human Services Finance Commission would be contrary to Section 44-6-30(4):

1. Child Development Services;
2. Community Long-Term Care System;
3. Field Management Team;
4. Early Periodic Screening, Diagnostic and Treatment Program.

Act No. 83 of 1983 is a new act and thus has not had the benefit of judicial construction or interpretation. We are therefore controlled by the language of the Act itself and its relevant history. The governing rule in construing Act No. 83 is to ascertain and give effect to the intention of the Legislature. [McGlohon v. Harlan, 254 S.C. 207, 174 S.E.2d 753 \(1970\)](#). In so doing, this office can only provide an interpretation of the relevant law; however, we must emphasize that we are neither empowered nor capable of making the specific determinations as to which personnel or resources should be assigned or reassigned to a particular agency in conformity with Act No. 83's purpose. Any such determination necessarily involves questions of fact, which this office is not equipped to undertake. *See Op. Atty. Gen.*, December 9, 1983. Accordingly, the ultimate application of these facts to any interpretation of the law set forth herein must remain with the agencies concerned. With that understanding, we now turn to an interpretation of Act No. 83.

As noted, HHSFC was created by Act No. 83 of 1983 which is now codified as [Section 44-6-10 et seq.](#) of the Code. Section 1 of the Act contains extensive findings by the General Assembly. Such findings are suggestive of the legislative purpose in the establishment of the Commission. [City of Spartanburg v. Leonard, 180 S.C. 491, 186 S.E. 395, 405 \(1936\)](#). The General Assembly found in enacting Act No. 83 that

. . . the present system of planning, financing and administration of interagency health and human services programs has developed piecemeal, and that a unified system is needed for the orderly development of a state policy to assure that essential programs are carried out in the most effective and efficient manner. This act establishes an organization and procedural framework for the planning, financing and administration of the programs provided for in this act and establishes general policy for the allocation of resources. [Emphasis added].

It is important to note that in these findings, as well as throughout the Act, the General Assembly repeatedly used the terms 'planning,' 'financing,' and 'administration' in conjunction with the phrase 'interagency health and human services programs [as provided for in this act]' when specifying the Commission's powers, duties and responsibilities. Such frequent usage of these terms itself evidences an intent that the Commission's functions are the 'planning, financing and administration' of those particular interagency health and human services programs' which are specified in the Act.¹

*2 It is also well established that administrative agencies such as HHSFC and DSS are creations of the Legislature; as such, they have such powers as have been conferred upon them by law and which may necessarily be implied from those expressly conferred. Bostic v. City of West Columbia, 268 S.C. 386, 234 S.E.2d 224 (1977); Piedmont & Northern Ry. Co. v. Scott, 202 S.C. 207, 24 S.E.2d 353 (1943); 73 C.J.S., Public Administrative Law and Procedure, §§ 49, 50. Of course, where authority is expressly conferred upon an administrative agency, it possesses such powers as are necessary to enable it to exercise those powers specifically granted by law. Beard-Laney, Inc. v. Darby, 213 S.C. 380, 49 S.E.2d 564 (1948). With respect to Act No. 83, the General Assembly took particular care in enumerating the powers and duties of the Commission and in specifying what HHSFC was and was not authorized to do; basic functions of HHSFC are set forth in Section 44-6-30 as follows:

The Commission shall:

- (1) Administer Title XIX of the Social Security Act (Medicaid), including the Early Periodic Screening, Diagnostic and Treatment Program, and the Community Long-Term Care System.
- (2) Be designated as the South Carolina Center for Health Statistics to operate the Cooperative Health Statistics Program pursuant to the Public Health Services Act.
- (3) Administer the Social Services Block Grant Program.
- (4) Be prohibited from engaging in the delivery of services.²

As can be seen, the first three subsections listed contain broad grants of power to HHSFC; on the other hand, the fourth subsection clearly sets forth a prohibition or imitation upon the authority granted to the Commission.³ It is evident, then, that the General Assembly sought in Section 44-6-30 to emphasize that the Commission was primarily concerned with administrative and policy making functions, not service delivery. When read in conjunction with the legislative purpose discussed above, it is apparent HHSFC is to provide the planning, financing and administrative functions of certain interagency health and human services programs, principally Title XIX and the Social Services Block Grant, but is expressly prohibited from engaging in the service delivery functions with respect to these programs. Rather than creating yet another service delivery agency, it appears that, in enacting Act No. 83, the General Assembly chose instead to establish HHSFC, to administer comprehensively certain interagency health and human services programs.

This reading of the Act is especially supported by the unofficial⁴ legislative history surrounding the Act's passage. Contained in the files of the committee which considered the legislation is a statement made by Governor Riley; the Governor noted in that statement that the bill creating HHSFC was filed in both the Senate and House upon his recommendation, and we note that the relevant portions of the bill remained virtually unchanged throughout the enactment process. In his formal statement, the Governor noted:

*3 A major purpose of this agency is to unify our system for the orderly and rational development of state policy. It has specific allocation authority for the two major interagency programs—medicaid [Title XIX] and the social services block grant.

The functions of planning, administration and financing would be transferred to this agency to consolidate state health planning, medicaid, the social services block grant and the state cooperative health statistics program. But the Commission will be

prohibited from engaging in the delivery of services. This should remove any conflict of interest in the administration of these programs and bring about cost effectiveness of administration.

Remarks by Governor Riley, Statewide Health Coordinating Council, Feb. 17, 1982, p. 3. [Emphasis added.]

Shortly thereafter, the Governor's Office presented testimony before the subcommittee on Social Services, Courts and Corrections Affairs of the Medical, Military, Public and Municipal Affairs Committee of the House. It should be noted that this testimony was entirely consistent with the Governor's earlier statement and again is supportive of our reading of the Act's purpose. In pertinent part, the testimony was as follows:

It is important to understand that this seven member commission, which would be appointed by the Governor, would have specific allocation authority for the two major interagency programs under its purview—Medicaid and the Social Services Block Grant. It does not have allocation authority for intra-agency programs within out health and human services agencies.

Testimony Before the Subcommittee on Social Services, Courts and Corrections Affairs of the Medical, Military, Public and Municipal Affairs Committee, by Sarah C. Shuptrine, Director, Division of Health and Human Services, Office of the Governor, March 9, 1982. [Emphasis added.]

When other portions of Act No. 83 are examined, the General Assembly's intent to make a basic delineation between delivery of services and the planning, financing and administration of the specific interagency programs listed in the Act, is clear. The Health and Human Services Finance Commission is expressly given extensive authority in the areas of planning, finance and administration by [Sections 44-6-40](#) and [44-6-50 of the Code](#). Those duties enumerated, which fall in the areas of administration and fiscal and planning oversight, include: preparation of state and federal plans; review and evaluation of programs to determine the extent to which they meet fiscal, administrative and program objectives and are being operated cost effectively; formulation of criteria, standards and procedures for evaluation; informing the Governor and General Assembly of the effectiveness of the criteria, standards and procedures for evaluation; development of an information system and mechanisms for local planning; and obtaining from participating state agencies certain necessary information.

*4 [Section 44-6-50](#) further emphasizes the legislative delineation between service delivery and the planning, financing and administrative aspects of the interagency programs listed in the Act. The Commission must, by the terms of that provision, (1) contract with health and human service agencies for service eligibility and determination; (2) contract for the operation of certified medicaid management information claims processing system; (3) contract for other operational components of programs administered under Chapter 6 of Title 44; and (5) establish a procedure to respond to inquiries from legislators. This provision emphasizes the demarcation between planning, financing and administration and service delivery under the Act, as it expressly recognizes that, although the Commission will not engage in the actual delivery of services, it will determine by contract who is to deliver them.

Thus, when we read [Sections 44-6-30](#), [44-6-40](#) and [44-6-50](#) together and consider the legislative findings and history of the Act, it is apparent that the General Assembly intended the Commission to perform the planning, financial and administrative functions of those interagency health and human services programs enumerated in the Act. In contrast, however, the Legislature also mandated that actual service delivery and such necessarily related (i.e. operational components) functions of those programs not be performed by HHSFC and must remain elsewhere.⁵

Not so specifically stated in the Act, but implied by the service delivery prohibition upon HHSFC, contained in [Section 44-6-30\(4\)](#), and the contracting provisions of [Section 44-6-50](#), is the intent of the General Assembly that service delivery agencies continue to perform certain managerial, supervisory and clerical functions for even interagency program service delivery, as they have in the past. While such functions may perhaps now be performed by contract, rather than through direct grants or appropriations, they are a necessary concomitant to these agencies' service delivery responsibilities. Without them,

these agencies could not assure compliance with contract procedures, manage service delivery, or provide necessary technical assistance to county offices and employees who are directly providing the services.

In determining that the continuation of these functions as a necessary part of service delivery was the intent of the Legislature, we must presume that the General Assembly did not intend to do a futile thing. [Gaffney v. Mallory](#), 186 S.C. 337, 195 S.E. 840 (1938). This rule is especially applicable here where the intent to prohibit HHSFC from itself performing actual service delivery is plain.⁶ And just as the health and human services agencies, whose responsibility it is to deliver services must have the necessary resources and personnel to carry out their service delivery functions, so too must HHSFC possess the incidental authority (within the scope of its express authority) and adequate resources necessary to exercise those administrative and policy making powers expressly granted by Act No. 83. See, [Beard-Laney v. Darby](#), *supra*.

*5 A precise delineation between planning, financing and administrative functions and service delivery, as these relate to the particular interagency health and human services programs referenced in the Act is, of course, not expressly set forth in Act No. 83. Further, we note that neither case law nor professional treatises are able to draw a bright line distinction between these functions. See e.g. Ecklein and Lauffer, [Community Organizers and Social Planners](#) (New York, 1972) at 274. No other statute of which we are aware draws such a line either. In the usual case, courts then give words their plain and ordinary meaning. [Worthington v. Belcher](#), 274 S.C. 366, 264 S.E.2d 148 (1980).

Commonly, 'service' possesses a rather broad and general meaning including 'any act performed for the benefit of another under some arrangement or agreement whereby some act was to have been performed.' [Creameries of America, Inc. v. Industrial Commission](#), 98 Utah 571, 102 P.2d 300, 304 (1940). 'Service' involves more than mere labor and signifies much more than merely the act of performing labor. [People v. McCord](#), 15 Cal.App.2d 136, 59 P.2d 587 (1936). 'Service' is also defined as 'any action or use that furthers some end or purpose.' [Van Zandt v. Fort Worth Press](#), 359 S.W.2d 893, 895 (Tex.Sup.Ct. 1962), citing Webster's Third New International Dictionary.

The terms 'planning' and 'financing' are also broad terms. 'Planning' normally connotes 'accomplishment of a particular act or object,' [Schainwald v. City of Portland](#), 153 Or. 167, 55 P.2d 1151, 1156 (1936), as well as the formulation of 'a scheme or program for the accomplishment or attainment' of an act or object. [American Heritage Dictionary](#) 947 (2d Ed. 1982). The term 'financial' is generally associated with the word 'fiscal,' which pertains to management of revenues, and 'often has reference to transactions involving money on a large scale.' [American Heritage Dictionary](#) 504 (2d Ed. 1982). And 'administration' is equally broad and generally connotes direction, management, oversight, and supervision. [Greene v. Wheeler](#), 29 F.2d 468 (7th Cir. 1928); [Black's Law Dictionary](#) 41 (5th Ed. 1979).

As seen, the common and ordinary meaning of these terms provide some guidance, but offer no precise delineation. Reliance upon them is probably not necessary, however, as Section 44-6-100 of Act No. 83 expressly states that '. . . the Commission and its members shall be confined to the policy making activities and duties prescribed in [Sections 44-6-30](#), [44-6-40](#), and [44-6-50](#).' And in this same regard, as we noted in our prior opinion dated July 26, 1983:

The word 'administer' if interpreted literally as giving the Commission the authority to actually run the programs mentioned in Act [83] would create a result contrary to the apparent intent of the legislature. Since the legislature spelled out the duties of the Commission and specifically prohibited the Commission from engaging in the delivery of services, such additional power should not be created by implication through applying a broad meaning to the word 'administer.'

*6 We believe the referenced language in that earlier opinion together with Section 44-6-100 correctly states the legislative intent with regard to a basic delineation of functions under Act No. 83. Thus, when the General Assembly delegated to HHSFC the planning, financial and administrative authority with respect to those specific interagency health and human services programs enumerated, it intended to define that authority by those powers specifically set forth in the Act itself and those which can necessarily be implied therefrom. In other words, the terms 'planning,' 'financing,' and 'administration' as used in Act No. 83 mean those 'policy making activities and duties prescribed in [Sections 44-6-30](#), [44-6-40](#) and [44-6-50](#)' of the Act. Section

44-6-100. As can be seen from a reading of those provisions, this administrative and policy making authority is comprehensive in scope and involves considerable discretion and responsibility.

Act No. 83 is much less clear with respect to the definition of 'service' or 'service delivery,' however. But as we stated in our earlier opinion, the Commission's extensive authority must be read in conjunction with [Section 44-6-30\(4\)](#) which prohibits HHSFC from the delivery of services. It is a well recognized principle of law that full effect must be given to each provision of a statute and all provisions must be construed in conjunction with one another. [State ex rel. McLeod v. Nessler, 273 S.C. 371, 256 S.E.2d 419 \(1979\)](#). Moreover courts often interpret a statute as much by what the Legislature does not say as by what it does say. See, 2A Sands, [Sutherland Statutory Construction](#), § 47.23. Thus, as a general rule of thumb, it would not be unreasonable to conclude that those functions which fall clearly outside the broad authority and duties delegated to the Commission by Act No. 83 were intended by the Legislature to constitute 'service' or 'service delivery.' Because Act No. 83 is completely silent as to the meaning of this term, we emphasize that this basic delineation cannot itself resolve all questions when it is necessary actually to implement Act No. 83; there will certainly be particular circumstances where positions or personnel will not neatly fit into this functional division. Those instances will undoubtedly turn upon resolution of facts as applied to Act No. 83. These are not within the province of this Office to adjudicate. Nevertheless, those duties and functions delegated to HHSFC by the Act ([Sections 44-6-30](#), -40, and -50) would in our judgment, provide a good legal reference point for the actual transfer of personnel and resources mandated by Act No. 83.

The Transition Committee, created by the Act to assist in its implementation, has taken a similar view to ours in determining the basic legal delineation between planning, financing and administration on the one hand and service delivery on the other. The Chairman of HHSFC has stated:

In developing the Transition Plan, the staff and the Transition Team utilized the law to determine what of the functions now carried out in regard to these service programs currently administered by DSS must be assumed by the Commission on July 1, 1984.

*7 The law is very specific in regard to these functions. At [Section 44-6-40](#) the law mandates the following duties:

1. Planning;
2. Compiling information;
3. Continuously reviewing and evaluating programs against fiscal, administrative, and program objectives, and to determine cost effectiveness;
4. Evaluating plans and programs in terms of their compatibility with state objectives and priorities;
5. Formulating and promulgating criteria, standards and procedures;
6. Keeping the Governor and General Assembly informed;
7. Developing an information system;
8. Developing a local planning mechanism;
9. Obtaining information from participating agencies.

Act [Section 44-6-50](#) the law directs that the Commission shall:

1. Contract for eligibility determination (while maintaining quality control);
2. Contract for the MMIS System;

3. Contract for operational components deemed appropriate;
4. Monitor and evaluate all contractual services to assure effective performance; and
5. Handle inquires from the General Assembly expeditiously and definitively.

At Section 44-6-70, the law calls for the development of state plans and requires that the Commission allocate resources based on such plans . . .

Comments, by Chairman, HHSFC at Transition Committee Meeting, Jan. 19, 1984. We believe that this statement correctly sets forth the basic legal delineation between the functions of HHSFC and the service delivery function and that it provides the correct starting point in the actual implementation of the Act.

We will now comment briefly upon each of the four programs about which you have inquired. We stress again that our advice herein can only set forth the basic delineation which the law itself provides, recognizing that specific instances will require fact finding, interpolation and consensus. The powers and duties of HHSFC set forth in Act No. 84 should be used as a guide in that endeavor. We will reference certain documents and information that might be helpful in providing guidance.

CHILD DEVELOPMENT SERVICES

Pursuant to [Section 44-6-30\(3\)](#), HHSFC is expressly mandated to ‘administer’ the Social Services Block Grant Program which funds, at least in part, Child Development Services. We make reference to several documents and pieces of legislation which may be helpful in implementing Act No. 83 with respect to this program.

We suggest that the Social Services Block Grant Program Plan for federal fiscal year 1983, printed before Act No. 83's enactment and presumably available to the General Assembly and considered by it, be consulted. On page 5 of that Plan, the Child Development Program is specifically described:

The Child Development service provides day care for children ages 0-6 outside the home for up to 10 hours per day. The program offers supervised, planned developmental activities, health screening and immunizations, nutritional meals and snacks, and diagnostic evaluations for children. The program offers the children's parents counseling and guidance, parenting education, and assistance in obtaining needed health and social services. Transportation is provided by most child development programs. This service also provides a home-based developmental program which offers children and parents the same services as out-of-home care, except for nutritional meals and snacks. The service is available to eligible children who are in need of protection or who are handicapped, to eligible children of working parent(s) or parent(s) in school or training, and to AFDC/SSI/Medicaid recipients. [Emphasis added.]

*8 That Plan also lists the Child Development Program under the category of ‘Service Delivery.’ We would also suggest that those who must implement Act No. 83 with respect to Child Development also examine the Social Services Block Grant Act within the Omnibus Reconciliation Act, P.L. 95-35, 1981 U.S. Code Cong. & Adm. News (95 Stat.) 867 and its legislative history, for further guidance upon what may constitute service delivery pursuant to the Social Services Block Grant.

As we stated above, however, the most basic source for guidance in implementing the Act is the Act itself. Since the Child Development Program is part of the Block Grant, HHSFC would now perform the planning, finance and administration aspects of this program, which are defined under [Sections 44-6-30](#), -40, and -50 of the Act. These provisions should be used as the basic reference point in delineation and transfer. Pursuant to [Section 44-6-30\(4\)](#), HHSFC could not, of course, actually deliver services with respect to this program.

COMMUNITY LONG-TERM CARE SYSTEM

By virtue of [Section 44-6-30\(1\)](#), administration of this interagency program is specifically assigned to the Commission. Accordingly, with respect to this program the Commission is mandated to perform those duties specifically enumerated in the Act, *i.e.* those contained in [Sections 44-6-30](#), -40 and -50. See *Op. Atty. Gen.*, July 26, 1983, *supra*. This would, of course, include the authority to contract for the delivery of services, mandated under [Section 44-6-50](#).

We would suggest that reference be made particularly to the document 'Request to Modify the South Carolina Medicaid Program Under The Authority of Section 2176, P.L. 97-35, Implementation in Section 1915(c) of the Social Security Act, March 1982, Revised May 14, 1982, June 16, 1982.' This document would probably be helpful in ascertaining which functions of this program have in the past been viewed as service delivery. We note that with respect to this program, preadmission assessment of applicants; level of care certification; service planning and service authorization have been viewed as service delivery. Again, however, the most important determinant in the delineation of functions should be the Act itself.

FIELD MANAGEMENT TEAM

Particular regard should be given to whether this program is an intra-agency program, rather than an interagency program and thus not subject to the Act at all. Based upon the information provided to us, the Team appears intra-agency in nature. Reference should be made to the Forty-Sixth Annual Report of The South Carolina Department of Social Services for the Year Ended June 30, 1983, p. 21 for a description of the Team. That description reads as follows:

The Filed Management Team was established in October, 1982 and is comprised of three filed administrators who are supervised by the Executive Manager for Assessment. The purpose of the Team is to assess and trouble-shoot various situations which are identified by management staff in the State and local offices. This system provides for the continuation of an effective system of checks and balances between State/county office administration and program delivery.

*9 If those responsible for implementing the Act, determine that this Team is intra-agency, rather than one of the interagency health and human services programs listed in the Act, then, under Act No. 83, HHSFC would not administer it. Regard should also be given to whether the Team is funded by any of the interagency programs mentioned in the Act.

EARLY PERIODIC SCREENING, DIAGNOSTIC AND TREATMENT PROGRAM (EPSDT)

Like the Community Long-Term Care System, administration of this interagency program is specifically assigned to the Commission pursuant to [Section 44-6-30\(1\)](#). As noted earlier, the planning, financial and administrative functions of EPSDT would thus rest with HHSFC. Accordingly, with respect to this program, the Commission is mandated to provide those duties and functions specifically enumerated in the Act, *i.e.* those contained in [Sections 44-6-30](#), -40 and -50. For example, HHSFC would contract with service providers as necessary, pursuant to [Section 44-6-50](#). Those persons who would carry out the functions enumerated in the Act would thus necessarily be transferred to the Commission.

The service delivery functions on the other hand, would be performed elsewhere (by either DSS or another agency or persons). A summary of the EPSDT program appears on page 38 of the DSS Annual Report. *See also*, R. 114-610, Code. These would be useful guides, at least from the standpoint of what has been traditionally viewed as service delivery within this program. As we understand the program, the principal service delivery functions are the determination of eligibility and the provision of EPSDT or related services (such as transportation). These functions would be performed by DSS or whoever else might be designated to perform them; they could not, however, be performed by HHSFC.

CONCLUSION

By Act No. 83 of 1983, HHSFC is delegated the broad authority to perform the planning, financing and administrative functions of those interagency health and human services programs which are specified in the Act. Such planning, financing and administrative functions are defined in the Act, pursuant to Section 44-6-100, as being those policy making duties and powers set forth in [Sections 44-6-30](#), -40, and -50 (see also -70) and those which are incidental to that express authority.

We have suggested herein that in the implementation of Act No. 83, through the transfer of certain resources and personnel to HHSFC, the policy making authority which has been delegated to HHSFC in the Act as noted above should be used as a guide in any delineation between planning, financing and administrative functions on the one hand and service delivery on the other. We have also advised herein that even though the Act clearly specifies that the policy making functions be separated from service delivery, actual implementation of the Act will require sufficient resources and supervisory personnel be allocated to all agencies affected in order that they be able to perform the respective statutory and contractual duties assigned to them.

***10** We have further recognized that the actual implementation process will undoubtedly encounter situations which do not fit neatly into the functional demarcation between policy making and service delivery. These situations will have to be resolved by interpolation and consensus; and we have expressly noted that this Office is not in a position to resolve such issues in this opinion and we have not attempted to do so. We further note that these issues do not so much raise questions of law as they do the application of particular facts to the statute in question; in some instances, the law on its face will not completely resolve the question. Probably then, such questions should be resolved as other interagency disputes within the executive branch of government are resolved—by consensus of the parties themselves.

We note here that the Transition Team, created by Act No. 83, has already proposed a specific delineation of functions, based upon virtually the same interpretation of Act No. 83 as we render herein. We emphasize, however, that we do not possess the necessary facts or expertise to review the Transition Team's specific allocation of resources and the Plan.

We trust that the interpretations and guidance set forth herein may be helpful in these final determinations, and we hope that all those concerned understand why we have perhaps not been as specific as some may have liked. Actual implementation of the Act will require a painstaking factual examination of each agency position and function, using the powers and duties of HHSFC set forth in the Act as a guide. This Office will be happy to provide whatever legal guidance and assistance may be necessary as the implementation process continues and is finalized.

Sincerely,

Robert D. Cook
Executive Assistant for Opinions

Footnotes

- 1 The term 'interagency' is defined as 'involving two or more public or governmental agencies.' Webster's Third New International Dictionary 1176 (1976). As will be seen below, the programs listed in [Section 44-6-30\(1\) through \(3\)](#) are considered interagency health and human services programs. The term 'intra-agency,' on the other hand, refers to 'within a single agency.' See [Black's Law Dictionary](#), 'intra,' 738 (5th Ed. 1979). It is not clear whether the Act intended that intra-agency functions be considered as within a particular program or within the overall program. Out presumption is that the entire, overall program is the interagency program.
- 2 See, [Op. Atty. Gen.](#), dated July 26, 1983, discussed more fully below, wherein this Office concluded that HHSFC does not have authority, pursuant to Act No. 83, to engage in the actual delivery or implementation of services for the programs authorized under its administration by the Act.
- 3 Where the Legislature grants authority in certain enumerated areas, the courts are hesitant to apply that grant of authority to other areas which the Legislature has not chosen to specify. See, 73 C.J.S., [supra](#), § 50; 2A Sands, [Sutherland Statutory Construction](#) § 47.23; [Home Building & Loan Assn. v. City of Spartanburg](#), 185 S.C. 313, 194 S.E. 139 (1938). This general authority is reinforced by the statement in Section 44-6-100 that 'the Commission and its members shall be confined to the policy making activities and duties prescribed in [Sections 44-6-30](#), [44-6-40](#), and [44-6-50](#).'
- 4 We recognize that there is as yet no official legislative history in South Carolina; accordingly, our Supreme Court has stated that '[t]he law as it is passed is the will of the majority of both houses, and the only mode in which that will is spoken is in the Act

itself, and the rule that the intention of the Legislature is the primary consideration in the construction of a statute does not permit the courts to consider statements made by the author of a bill or by those interested in its passage’ [Tallevast v. Kaminski](#), 146 S.C. 225, 236, 143 S.E. 796 (1928). We simply consult and point to the legislative history to show its complete consistency with the text of the Act itself.

- 5 We note also that of those specific duties or powers assigned to HHSFC in [Sections 44-6-40](#) and [44-6-50](#), none appear to be related to the internal operations of a primarily service delivery agency, such as DSS or DHEC. From this, we presume, therefore, that the General Assembly intended that intra-agency program functions, personnel and resources were unaffected by Act No. 83. Again, the language of the Act itself, as well as the legislative history, supports this conclusion. See, Section 1; [Section 44-6-40](#). It will be recalled that those who testified in the Act’s favor stated simply that HHSFC ‘does not have allocation authority for intra-agency programs within our health and human services agencies.’ Testimony, supra. See also, fn. 3.
- 6 In other words, there may be a distinction between one who is in the field to monitor and evaluate program performance and one who is in the field to coordinate management of service delivery, and provide technical assistance to county offices, to correct deficiencies and assure program compliance. We note that in the past, the technical assistance and consultation provided by DSS to the county DSS boards and staff have been viewed as service delivery. See, Section 43-1-10 et seq.; Section 43-3-10 et seq., particularly, Section 43-3-60. The Transition Team has apparently recognized this past practice by taking into account that DSS delivers services through the counties. See, Comments of Chairman of HHSFC, at Transition Committee Meeting, Jan. 19, 1984 [‘The role of the county DSS office (which is the service delivering arm of DSS) will not change in any respect due to the decisions which have been made by the Transition Team.’].

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