

1983 WL 181929 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 1, 1983

*1 Honorable Mary P. Miles
Member
House of Representatives
Route 3
Box 579
St. Matthews, South Carolina 29135

Dear Representative Miles:

You have requested the advice of this office as to whether the Calhoun County Schools have authority to spend money in the 1983-84 school year in the absence of special legislative authorization for that year. Local legislation on the subject is pending but has not yet been passed by the General Assembly.

For at least each of the last two years, the Legislature has passed legislation concerning school funding for Calhoun County. See, e.g., Act 519, Acts and Joint Resolutions of South Carolina, 1982; Act 226 of 1981. The 1982 law 'authorized' certain line item appropriations for the operation of the public schools in Calhoun County in the 1982-83 fiscal year and stated that they should be expended in accordance with the budget adopted by the Calhoun County Board of Trustees (District Board) and approved by the County Board of Education (County Board). The law also placed certain restrictions on the expenditures and expressly provided for the carryover to the next fiscal year of funds not expended or used in the 1982-83 fiscal year.

Although the line item appropriations and accompanying language in the 1982 Act indicate that the General Assembly reviewed and authorized budgets for the 1982-83 fiscal year, neither that law nor other authority indicates that the Calhoun County school system is required to obtain further authorization before spending money in 1983-84. Act 1030 of 1974 gives the district board substantial fiscal authority. It provides that the district board be the unit for financing and receiving local, state and federal funds and charges that board with the responsibility of the expenditure and accounting of the funds in the hands of the board. It requires that all school funds of the county be deposited with the county treasurer to the credit of the district board and withdrawn only upon district board warrants. It expressly gives the district the authority to draw warrants upon school funds for the payment of services and other itemized expenses. Under this law, the superintendent hired by the district board is charged with the responsibility of preparing and administering annual budgets.

The above authority appears to be sufficient to allow the district to spend money on hand for school purposes in Calhoun County in 1983-84 without further legislation ([Grimball v. Beattie](#), 174 S.C. 422, 177 S.E. 668 (1934)); however, we express no opinion as to what millage if any could be applied in 1983-84 in the absence of additional legislation.

The 1982 law does not require that money carried over from 1982-83 to 1983-84 be spent in accordance with the 1982-83 appropriations or budgets; however, [Article X Section 7 of the Constitution of South Carolina](#) (1895, as amended) requires the preparation of budgets, and [Article X Section 8](#) requires that money be drawn only in pursuance of appropriations made by law. Because legislation on the subject of the Calhoun County school funds is pending, the school district may wish to consider using the previous fiscal years guidelines as its budget until the new local legislation passes. Some kind of budget should be in place for the expenditure of money in 1983-84.

*2 If we may be of further assistance, please do not hesitate to contact us.
Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

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