

1983 WL 181940 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 12, 1983

*1 Edgar A. Vaughn, Jr., CPA
State Auditor
Wade Hampton State Office Building
Columbia, South Carolina 29201

Dear Mr. Vaughn:

You have requested an opinion as to whether the expenditure by Solicitors of State-appropriated funds is subject to [Sections 11-9-10, 11-9-20, 11-9-70, 11-9-210, 11-9-220 and 11-9-230, 1976 Code of Laws of South Carolina](#). The sections in question are part of Title 11, Chapter 9, which deals generally with state finances.

The funds in question are appropriated annually by the General Assembly to the Solicitors' Offices in a subsection in the section of the Appropriations Act which provides for the Attorney General's Office. A line item in this subsection appropriates an amount for 'Judicial Circuits-State Support.' The provisos to the section of the Appropriations Act concerning the Attorney General's Office require that the Solicitor designate one County within his circuit as his financial agent for the disbursement of the State funds appropriated to him. The State Treasurer then directs the appropriated funds to a special, separately-accounted-for, solicitor's account in the designated county. It is further provided that '[t]he Solicitor may expend the funds for the payment of expenses incurred in the operation of his Office.' (An example of the typical annual provision to the above effect is found in the 1982 Statutes at Large at p. 2715).

From the foregoing, it is apparent that the Solicitor is responsible for directing how the appropriation is to be spent, with the designated county acting as his agent for financial matters. There is no question, however, that the funds appropriated to the solicitors pursuant to these provisions are 'State funds appropriated by the General Assembly,' within the meaning of such statutes as [§ 11-9-20](#); [§ 11-9-10](#) contains language of similar import and is also applicable. Likewise, [§§ 11-9-210, -220, and -230](#), which prohibit spending in excess of appropriations as well as borrowing (except through the Budget and Control Board), are applicable generally to State officers, a term which clearly extends to Solicitors. See 1952-53 *Op. Atty. Gen.* 205. [§ 11-9-70](#), which provides for possible forfeiture of bond by '[a]ny State officer who neglects or fails to remit to the State Treasurer as required by law . . .' would also generally apply to the solicitors as State officers., This section, however, does not create any specific duty to remit funds, which, if it exists, would be found in other provisions of statute.

For the foregoing reasons, it is the opinion of this Office that the aforementioned statutory provisions are applicable generally to the operation of solicitors' offices. This general conclusion, however, does not address specific questions such as whether certain acts would constitute 'borrowing' or whether a duty to remit funds to the Treasurer exists in any given instance.

Sincerely yours,

Kenneth P. Woodington
*2 Senior Assistant Attorney General

1983 WL 181940 (S.C.A.G.)