

1981 WL 158251 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 27, 1981

*1 Mr. H. Michael Spivey
Chairman
Greenville County Council
Greenville County Courthouse
Greenville, South Carolina 29601

Dear Mr. Spivey:

In response to your request for an opinion from this Office regarding certain language in the 1980-81 General Appropriations Act, this Office has not issued an opinion to my knowledge. Inasmuch as your question concerns the construction of a general law of State-wide application, however, I can advise you as to the following provision:

Provided, Further, That it is the intent of the General Assembly that any expense incurred in any county for the defense of indigents in excess of the county's share of funds appropriated in this section for such purpose shall be borne by the county. 61 STAT. at 1549 (1980).

First, this proviso does not require or mandate that a county appropriate any funds for the defense of indigents in excess of the county's share of State-appropriated funds. It simply provides that if any additional expense above the county's share of State-appropriated funds is incurred, the county as opposed to the State must bear that expense. In fact, the proviso merely makes explicit that which is necessarily implied, *i.e.*, the State will finance only that part of the expense of a county defense of indigents program for which a State appropriation is expressly made and no more.

Second, a county governing body is free to increase, decrease or otherwise modify the amount appropriated for its defense of indigents program from one fiscal year to another. There is no language, either express or implied, in the proviso which prevents a county governing body from altering appropriations from one fiscal year to the next for its defense of indigents program nor could such a restraint be validly placed upon a public body which expends public funds. [S.C. CONST. art X, § 7](#); [State, ex rel. Edwards v. Osborne, 193 S.C. 158 \(1940\)](#); [Gregory v. Rollins, 230 S.C. 269 \(1956\)](#).

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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