

1981 WL 158084 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 23, 1981

\*1 The Honorable Charlie G. Williams  
State Superintendent of Education  
South Carolina Department of Education  
Rutledge Building  
Room 1006  
Columbia, South Carolina 29201

Dear Dr. Williams:

You have requested the opinion of this office as to the meaning of a proviso to Section 28 of the Appropriations Act for 1981 (Act 178, Acts and Joint Resolutions of South Carolina, 1981). The proviso reads as follows:

Provided, Further, That of the amounts appropriated herein, under Section VII Education Finance Act, \$382,173 generated by the Vocational weighting shall be used to continue<sup>1</sup> the additional cost of placing vocational agriculture teachers on twelve-month contracts.

The wording of this proviso appears to require that \$382,173 be set aside from Education Finance Act ([§ 59-20-10, et seq. of the Code of Laws of South Carolina \(1976\)](#), as amended) money apportioned for vocational programs and that it must be used to fund the additional cost of placing vocational agricultural teachers on twelve-month contracts.<sup>2</sup>

The amount of state funding to be apportioned for vocational programs is determined by formulas set out in the Finance Act (See [§ 59-20-40](#)). These formulas should not reflect the additional costs of extending nine-month vocational agriculture programs by three months. Those programs are not differentiated from other vocational programs under the formulas and none of the factors involved in the formulas<sup>3</sup> would appear to be based upon any school term other than the 185 days mandated by an appropriations act proviso. Thus, the \$382,173 is taken from the amount of Finance Act money funding nine-month vocational programs generally.

Although this office is informed that the lump-sum Finance Act appropriation apparently includes the addition of \$382,173 to the amounts projected to be needed for funding nine-month programs, this amount is not shown in any separate line item in the Appropriations Act. Thus, the proviso is controlling here and it provides for taking the money only from the money generated for vocational programs according to the formulas discussed above. In addition, the absence of a separate line item appropriation and the proviso would appear to prevent transferring part of the Finance Act funds so as to compensate for the \$382,173 that must be removed from the vocational weighting funding. [See § 2-7-75 of The Code](#), as amended, and § 140 of the 1981 Appropriations Act.

The question may arise as to whether the vocational agriculture money is to come from the entire state funding amount for vocational programs or whether it may come only from the state shares going to those districts which operate vocational agriculture programs. Because the proviso does not refer to school districts in terms of the state funding of the twelve-month programs, the implication is that the money is to come from the total state Finance Act funding for programs covered by the vocational weighting. Deducting that \$382,173 will necessarily result in less state money being available to the school districts than they are entitled to receive under the formulas, so their entitlements should be reduced by an equal percentage to bring them into conformity with the available funds. See proviso to § 28 of the Appropriations Act, pp. 1248 and 1949.

\*2 I note that the proviso that is the subject of this opinion limits the \$382,173 only to ‘. . . the additional cost of placing vocational agricultural teachers on twelve-month contracts.’ Although this phrase could be interpreted to include incidental costs resulting from placing teachers on twelve-month contracts, had the legislature so intended, it could have specified that the money cover all costs associated with extending the program. Thus, the proviso seems to imply that the money is to be used only for teachers' salaries.

Unlike a similar proviso in last year's Appropriation's Act (See Act 517, 328, pp. 1806, 1807). This year's proviso does not specify that the money be used only if the local school districts' other state and local Finance Act funding is insufficient nor does it require local matching. The deletion of the first of these requirements would appear to require the allocation of the \$382,173 to the various school districts operating twelve-month programs regardless of whether the districts have other state or local finance Act money available for that purpose; however, local matching would still appear to be required. Because the money set aside by the proviso comes from the state's share of Finance Act money, the clear implication is that the money covers only the state's share of costs and that the school districts should match it as provided in the Finance Act.

I have tried to address a number of possible implications of this proviso. If you have further questions, please let me know.

Yours very truly,

J. Emory Smith, Jr.  
Assistant Attorney General

#### Footnotes

- 1 The use of the word ‘continue’ with reference to ‘cost’ is somewhat ambiguous here. The word ‘cover’ was used in a similar sentence in a proviso in last year's Appropriations Act, Act 328 of 1980, p. 1806. A reading of the entire 1981 proviso indicates that it was intended to read either ‘. . . cover . . . the . . . cost’ or ‘continue to cover . . . the . . . cost’.
- 2 [Sections 59-53-1850 through 59-53-1870 of The Code](#) provide for the twelve-month programs.
- 3 Section 59-20-40(c) refers to § 59-53-1860 which includes part of the vocational agriculture law but this reference only has the purpose of establishing criteria for membership in the various weighting classifications. Because twelve-month students would be counted in the same classification anyway if they were nine-month students, the membership for it would not be increased by a district's having a twelve-month program. Thus, the reference to §59-53-1860 in § 59-20-40(c) would not have any effect on the level of Finance Act funding.

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