

1976 S.C. Op. Atty. Gen. 217 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4382, 1976 WL 23001

Office of the Attorney General

State of South Carolina

Opinion No. 4382

June 30, 1976

\*1 Provision No. I, Part 1, Section 85 of the 1976–77 General Appropriation Bill is subject to a separate veto by the Governor; and unless the Governor's veto is overridden, no money can be appropriated for the salaries of the members of the South Carolina Employment Security Commission.

TO: The Honorable Rex L. Carter  
The Speaker  
S. C. House of Representatives

QUESTION PRESENTED:

Is Provision No. I of Part 1, Section 85 of the 1976–77 General Appropriation Bill a distinct item or section within the meaning of Article IV, Section 21, of the South Carolina Constitution so as to make it subject to a separate veto by the Governor?

AUTHORITIES:

Article IV, Section 21, Constitution of the State of South Carolina, 1895, as amended.

[Cox v. Bates](#), 237 S.C. 198, 116 S.E.2d 828 (1960).

[State v. Jones](#), 99 S.C. 89, 82 S.E. 882 (1914).

DISCUSSION:

Article IV, Section 21, of the South Carolina Constitution states in part:

Bills appropriating money out of the treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections. If the Governor shall not approve any one or more of the items or sections contained in the bill, but shall approve the residue thereof it shall become a law as to the residue in like manner as if he had signed it.

The purpose of the constitutional requirement that bills appropriating money must specify the object of the appropriation by making them in distinct items and sections is to subject the provisions of the bill to separate vetoes by the Governor without affecting the validity of other appropriations contained in the Act. [Cox v. Bates](#), 237 S.C. 198, 116 S.E.2d 828 (1960).

The operation and effect of the Governor's line-item veto power was discussed in [State v. Jones](#), 99 S.C. 89, 82 S.E. 882 (1914). There, the officers and employees of the Confederate Infirmary petitioned the Court to mandamus the Comptroller General to pay out certain funds alleged to have been appropriated by the General Assembly for the support and maintenance of the Confederate Infirmary. Section 30 of the 1914 Appropriation Act provided for the operation

of the Infirmary, and Item 3 thereof provided for the salaries and wages of the officers and employees of the Infirmary. When the Act was presented to the Governor for his approval, Item 3 of Section 30 was vetoed and that veto was sustained by the General Assembly.

Items 1, 2, and 4 of Section 30 received the Governor's approval, and provided for: (1) Pensions; (2) Maintenance of the Infirmary; and (4) For such current repairs as may be necessary to the Infirmary.

In dismissing the petition the Court quoted from what was then Article IV, Section 23, of the Constitution (quoted above as Article IV, Section 21) and stated:

This language is too plain for doubt. When his Excellency, the Governor, vetoed item 3 of Section 30 of the Appropriation Act, and that veto was sustained, everything embraced in that item failed to become law, and the effect on the part of the petitioners to require the Comptroller General to issue warrants on the State Treasurer must fail, as he is without authority of law to do so; and the petition and application for the mandamus must be denied. Petition dismissed.

**\*2** Provision No. I, of Part I, Section 85 of the 1976–77 General Appropriation Bill states a distinct object and a distinct amount to be appropriated for that object, and therefore is subject to a separate veto by the Governor.

Unless and until the General Assembly overrides the Governor's veto, Provision No. I will fail to become law, and there will be no law pursuant to which the Comptroller General may issue warrants on the State Treasurer to pay the salaries of the Chairman and Commissioners of the South Carolina Employment Security Commission.

#### CONCLUSION:

Therefore, the opinion of this Office is that Provision No. I of Part 1, Section 85 of the 1976–77 General Appropriation Bill is a distinct item within the meaning of Article IV, Section 21, of the South Carolina Constitution, and as such is subject to a separate veto by the Governor. Until such veto is overridden by the General Assembly, no money can be appropriated to pay the salaries of the Chairman and Commissioners of the South Carolina Employment Security Commission.

Victor S. Evans  
Deputy Attorney General

1976 S.C. Op. Atty. Gen. 217 (S.C.A.G.), 1976 S.C. Op. Atty. Gen. No. 4382, 1976 WL 23001