



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

CHARLES MOLONY CONDON
 ATTORNEY GENERAL

December 15, 1996

The Honorable TEC Dowling
 Superintendent
 Newberry County School District
 P.O. Box 718
 Newberry, SC 29108

Dear Dr. Dowling:

You have requested an opinion regarding the maintenance of local effort requirements for school districts set forth in S.C. Code Ann. § 59-21-1030 (Supp. 1995) which was addressed in an informal opinion from me to you and the Honorable Harriett Rucker on September 30, 1996. That letter discussed the issue of whether revenue in excess of budget estimates must be used as a base for calculating the local effort requirements for the following fiscal year. It stated that this issue remains the subject of differing opinions and may need to be resolved by a declaratory judgment action or legislative clarification. You have asked to be advised whether to continue to follow the State Board of Education's guidelines until any declaratory judgment or legislative action clarifies this matter.

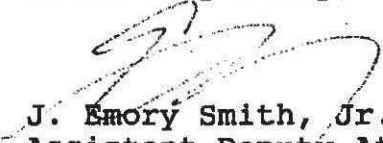
The State Board and State Department of Education have substantial responsibilities with respect to auditing of funding for the schools. See §§ 59-20-60 and 59-21-1020 (Supp. 1995). In particular, §59-21-1020 provides that the State Board must monitor and audit the disbursement of Education Improvement Act (EIA) funds and §59-21-1030 provides that no school district that has not complied with its terms may receive EIA funds unless a waiver is granted by the State Board under the terms of that statute. These provisions necessarily give the State Board the authority to

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determine compliance with §59-21-1030.¹ Accordingly, the Board's construction of §59-21-1030 will affect that determination of compliance. Therefore, this authority suggests that, until legislative or judicial clarification is forthcoming, the State Board's construction of §59-21-1030 should be followed.

This letter is an informal opinion. It has been written by the designated Assistant Deputy Attorney General and represents the opinion of the undersigned attorney as to the specific questions asked. It has not, however, been personally reviewed by the Attorney General nor officially published in the manner of a formal opinion.

Yours very truly,



J. Emory Smith, Jr.
Assistant Deputy Attorney General

CC: The Honorable Harriett L. Rucker

JESjr

¹ The "...primary function in interpreting a statute is to ascertain the intention of the legislature." South Carolina Department of Highways and Public Transportation v. Dickinson, 288 S.C. 134, 341 S.E. 2d 134 (1986). "Where the terms of a statute are clear and unambiguous, there is no room for interpretation and we must apply them according to their literal meaning." Id.