

The State of South Carolina



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June 11, 1992

The Honorable Isadore E. Lourie
Senator, District No. 21
303 Gressette Building
Columbia, South Carolina 29202

Dear Senator Lourie:

You have requested my opinion as to whether Richland County Council has the authority to reduce appropriations or to fail to appropriate funds to the Richland County Veterans Affairs Office. Act No. 532 of 1971 provides in relevant part that "the salaries of the personnel and the amounts for supplies and official legislative expenses of the office of the ... Richland County Veterans Affairs Office shall be fixed by the Legislative Delegation from Richland County and annually forwarded to the Council for inclusion in the county budget."

It is our understanding that, for fiscal year 1992-93, an amount of approximately \$22,309.00 is expected to be received by the Richland County Veterans Affairs Office from the State of South Carolina. That Office requested \$23,030.39 from the county; subtracting the anticipated state funding, the county would be required to provide approximately \$721.00 for the next fiscal year. We understand further, however, that following second reading of the county budget ordinance by county council, the amount approved for the Veterans Affairs Office is zero dollars.

We must express our concern that Act No. 532 of 1971 is not being followed. The office of county veterans affairs officer is a creature of state statute appointed by the Director of Veterans Affairs upon recommendation of a "majority of Senators representing the county and a majority of the House members representing the county." See, Section 25-11-40. Moreover, we are concerned that, in this instance, county council appears largely to be redirecting state funds earmarked for the Veterans Affairs Office for

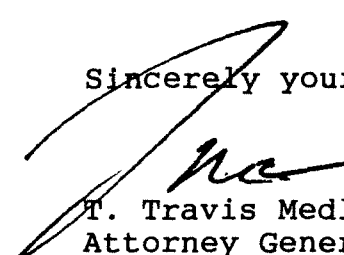
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purposes other than veterans affairs. In an opinion of our Office dated June 6, 1963, copy enclosed, we advised that state funds appropriated to a county by the legislature for a specific purpose must be used for the purpose specified; in the event that all of the funds should not be utilized for the purpose appropriated, any balance must be returned to the General Fund of the State. That opinion dealt with funds earmarked for the operation of county veterans affairs offices and appears to be on "all fours" with the question you have presented. See also Ops. Atty. Gen. dated June 15, 1987 and September 5, 1979.

We remain of the same opinion today as expressed in the June 6, 1963 opinion and subsequent opinions. In short, a county council has no authority to divert funds, appropriated by the General Assembly for veterans affairs offices, to other purposes. Too, Act No. 532 of 1971 appears to require council to fund the balance of the requested amount for the operation of the Veterans Affairs Office.

Finally, you have asked whether, if these issues are not resolved, and litigation becomes necessary, whether this Office would be willing to reiterate its position expressed herein in such litigation. While our involvement in such litigation is rare, in this instance we would be more than willing to participate as a "friend of the court" to reiterate the foregoing legal views. The questions raised here are important issues of statewide significance. We agree with the view expressed by the President of the South Carolina Association of County Veterans Affairs Officers that such action by Council "takes away a vital state mandated and state funded service." 1/

Sincerely yours,



T. Travis Medlock
Attorney General

TTM/an
Enclosure

1/ Likewise, council would not possess the authority to alter the amount of funding requested by the county delegation for the funding of the delegation office. This Office has concluded on numerous occasions that the salary of the delegation personnel and other expenses related to the delegation office are to be determined by the delegation

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and the amount so determined is to be included by the county council in the annual county budget. See, Ops. Atty. Gen. dated March 13, 1989; April 15, 1983; July 7, 1981; July 16, 1980; September 18, 1979; May 18, 1978; September 9, 1979; July 15, 1977; and December 22, 1988 (provision of the Home Rule Act is still viable even though it is not codified). As noted in the opinion of April 15, 1983, "There is no provision of the Home Rule Act that would allow the county councils to refuse to appropriate the amount determined by the legislative delegation." A letter from then-Interim County Administrator Robert G. Mauney acknowledges the foregoing ("... we are fully mindful of the State Law requirements that the Delegation budget be funded at the full amount as requested by the Delegation ..."). See letter of August 19, 1991 from Robert G. Mauney to Senator Isadore Lourie.