

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. _____

August 28, 1987

SUBJECT: Taxation & Revenue - Corporate License Fees.

SYLLABUS: The amendments to Section 9, Part II, of the 1987-1988 Appropriations Act are not a part of the statute law of the State. The Commission should not therefore enforce or administer the same.

TO: Honorable S. Hunter Howard, Jr., Chairman
Honorable John M. Rucker, Commissioner
Honorable A. Crawford Clarkson, Jr.
Commissioner
South Carolina Tax Commission

FROM: Joe L. Allen, Jr. *JA*
Chief Deputy Attorney General

QUESTION: Should the Commission enforce the amendments to Section 12-19-70 that were provided in Section 9 of Part II of the 1987-1988 Appropriations Bill?

APPLICABLE LAW: Article IV, Section 21 of the Constitution of South Carolina.

DISCUSSION:

The Section, inter alia, increases the minimum license fees for corporations, and defines earned surplus for the calculation of the license fee for bank and savings and loan holding companies. It is effective August 31, 1987. The Section was vetoed, however, by the Governor, which veto was returned to the House.

Article IV, Section 21 provides in part that:

"The Governor shall then return the bill with his objections to the items or sections of the same not approved by him to the house in which the bill originated, which house shall enter the objections at large upon its Journal and proceed to reconsider so much of the bill as is not approved by the Governor.

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The same proceedings shall be had in both houses in reconsidering the same as is provided in case of an entire bill returned by the Governor with his objections; and if any item or section of the bill not approved by the Governor shall be passed by two-thirds of each house of the General Assembly, it shall become a part of the law notwithstanding the objections of the Governor."

For the Section to have become law, it was necessary that both the House of Representatives and the Senate vote to override the veto. Attached and made a part of this opinion is a copy of a letter from the Honorable Frank Caggiano, Clerk of the South Carolina Senate, advising that the Senate took no official vote on the veto. The Senate did take an informal vote to override, however, the same was under motion that the vote would have no effect until the Senate received the Bill from the House of Representatives.

Since the requirement that both bodies vote to override the veto was not met, the amendments to the Section are without effect.

CONCLUSION:

The amendments to Section 9, Part II, of the 1987-1988 Appropriations Act are not a part of the statute law of the State. The Commission should not therefore enforce or administer the same.

JLAJr/jws
Attachment