

The State of South Carolina



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May 22, 1985

The Honorable Alexander S. Macaulay
Member, South Carolina Senate
612 Gressette Building
Columbia, South Carolina 29202

Dear Senator Macaulay:

You have asked the following question:

Does § 11-11-310 permit the General Assembly to reduce the annual General Fund Operating Budget sometime within the calendar year 1986, or when it approves the annual General Fund Operating Budget for fiscal year 1985-86?

Your question was answered by an opinion issued by this Office on March 13, 1985, and we enclose a copy of that opinion for your review. Therein, we stated, in response to the question whether Section 11-11-310 mandates any particular time within fiscal 1985-86 when the General Assembly must begin implementing its annual reductions:

We would advise that there is nothing in the statute which makes such a requirement. Section 11-11-310 simply refers to years generally; indeed, with respect to 1986, the provision requires only that such implementation begin "in" 1986. Thus, if Section 11-11-310 means fiscal 1986, so long as such implementation begins during that year, the

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requirements of the provision would be met. ...

[B]ecause there is some genuine dispute as to the precise meaning of whether the date references contained in Section 11-11-310 are to fiscal years or to calendar years, we believe the reading which more fully reconciles these various interpretations is as follows. So long as the General Assembly implements the reductions "in" 1986 (preferably by virtue of the Appropriations Act being made effective prior to July 1, 1986) the express statutory requirements have been met. Such a reading is in accord with the fact that the entire thrust of Section 11-11-310 focuses upon action by the General Assembly and not when the budgetary reductions actually take place. Typically, the General Assembly now enacts the General Appropriations Act effective prior to July 1 of each year anyway. See, Act No. 512 of 1984 (effective June 28, 1984); see also, Op. Atty. Gen., July 25, 1984. Thus, as long as the General Assembly acts to reduce the budget by 1% before July 1, 1986 and by an additional 1% prior to July 1 of each succeeding year (up to 5%), any possible dispute as to whether fiscal year or calendar year was intended would be resolved... . [T]he General Assembly is the body most appropriate to resolve any such conflicts and furthermore appropriations are solely within the province of the General Assembly.

Of course, nothing contained in the statute precludes the General Assembly from beginning at this session to implement § 11-11-310 or the general purpose it seeks to achieve. It is undoubtedly within the discretion and province of the General Assembly to implement a 1% budget reduction (or even greater if desired) beginning with the 1985-86 budget. We understand that the House has already adopted a 1% reduction for next fiscal year. Such would be a matter for the General Assembly to determine within the parameters of sound fiscal policy. While

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§ 11-11-310 mandates the latest possible dates for implementation of budget reductions, the statute does not purport to bind the General Assembly as to any earlier implementation.

Sincerely,

Patricia D. Petway

Patricia D. Petway
Assistant Attorney General

PDP:djg
Enclosure

REVIEWED AND APPROVED BY:

Robert D. Cook

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