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The State of South Carolina

Office of the Attorney General

Opinion No 86-74
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T. TRAVIS MEDLOCK
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July 2, 1986

Richard Ruhle, Esquire
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Dear Mr. Ruhle:

Attorney General Medlock has referred your letter of June 4, 1986, to the Opinion Section for reply. You have asked whether or not the funds collected pursuant to Section 52 of Part II of the Appropriations Act of 1985 (Act 201 of 1985), now codified in Section 14-1-230 of the Code, may still be used for construction of a new local detention facility in Anderson. We would advise that the General Assembly has now amended this provision as part of the recently enacted Omnibus Crime Bill, S.459, and has redirected the funds for other purposes.

Section 14-1-210 authorizes the collection of a cost of court fee for every conviction. Formerly, Section 14-1-230 authorized these fees to be used to finance local correctional facility construction or renovation projects for additional bed space for convicted offenders who received sentences of greater than ninety (90) days and less than one year as well as operating costs. These monies were to be expended in the discretion of the Budget and Control Board. It is our understanding that Section 14-1-210 et seq. was enacted in 1985 in anticipation of passage of an earlier version of the Omnibus Crime Bill which at that time provided that prisoners receiving a sentence of less than one year were to be incarcerated in local detention facilities. However, this earlier version of the Omnibus Crime Bill was never enacted by the General Assembly.

Pursuant to Section 24-3-30 of the Code, the only offenders placed in the custody and control of local officials are those prisoners who have received a sentence of a term of imprisonment of three months or less. Inasmuch as the General Assembly did not see fit to enact the earlier provision in the Omnibus Crime Bill which would have required local correctional facilities to house those receiving sentences of terms of imprisonment of greater than three months but less than one year, the General Assembly apparently also determined that the funds previously allocated under Section 14-1-230 for the construction or renovation of local correctional facilities was no longer necessary. Instead, pursuant to the provision to be codified as Section 14-1-210 included in S.459, the General Assembly chose to allocate the assessed cost of court fee to "programs established pursuant to Chapter 21 of Title 24 of the 1976 Code and appropriations authorized by Section 17-21-90 of the 1976 Code of Laws as amended." Specifically, Section 14-1-230 was amended by S.459 to provide that

> Funds deposited to this account shall remain in the account from fiscal year to fiscal year and shall be available to the General Assembly for appropriation to programs established pursuant to Chapter 21 of Title 24 of the 1976 Code and appropriations authorized by Section 17-21-90 of the 1976 Code of Laws as amended.

In short, the General Assembly has chosen in S.459 to reallocate the cost of court fees collected pursuant to Section 14-1-210 et seq. to other purposes. Nowhere in S.459 is there a suggestion that this decision by the General Assembly does not apply immediately to applications for funding by the Budget and Control Board made prior to the effective date of S.459. While statutes are not normally deemed retroactive in effect, absent a clear indication otherwise by the General Assembly, it is apparent from the face of the statute that "[b]eginning on July 1, 1985, and continuously thereafter," the court costs collected are to be allocated to programs established pursuant to Chapter 21 of Title 24 and appropriations authorized by Section 17-21-90 of the Code. See, Hercules Inc. v. S. C. Tax Commission, 274 S.C. 137, 262 S.E.2d 45 (1980). Moreover, the mere pendency of an application cannot be deemed in this instance to have conveyed any vested rights in the expenditure of public funds which of course remains a matter within the discretion of the General Assembly. See, Irwin v. Brooks, 19 S.C. 96 (1883).

In addition, there can be no vested rights in a public law. See, Matthews v. Bailey, 131 S.W.2d 425, 428 (Ark., 1939). Thus, your question is answered by the clear language of the recently enacted statute and this Office has no authority to reach a conclusion contrary to the clear intent of the General Assembly. Such is a matter which should be addressed by the legislature itself.

If we can be of any further assistance, please let us know. With kindest regards.

Sincerely,

Charles H. Richardson
Assistant Attorney General

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REVIEWED AND APPROVED BY:

Robert D. Cook
Executive Assistant for Opinions