

Library 1747

THE STATE OF SOUTH CAROLINA
OFFICE OF THE ATTORNEY GENERAL
COLUMBIA

OPINION NO. 85-237

October 3, 1985

SUBJECT: Public Officers - Compensation of County
Auditors and Treasurers.

SYLLABUS: A County cannot decrease its funding to the
salary of the County Auditor and County
Treasurer by reason of the amount of state
funding for those officers.

TO: Honorable Johnny C. Allen *JCA*
Treasurer, Horry County

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

QUESTION: In Horry County, the budget established a Three
Thousand (\$3,000.00) Dollar salary increase for the County
Auditor and Treasurer for the 1985-86 fiscal year. That
amount was, however, decreased by Six Hundred Ninety-eight
(\$698.00) Dollars because that sum represented the amount of
salary increase provided in the State budget. The question
is the authority for this reduction.

APPLICABLE LAW: § 8 of Part 1 of the 1985-86 South
Carolina Appropriations, House Bill H-2640, R-232; §§ 4-9-30
and 4-9-140 of the 1976 South Carolina Code of Laws.

DISCUSSION:

Section 4-9-140 provides that the County Council is to:

" * * * adopt annually and prior to the
beginning of the fiscal year operating
and capital budgets for the operation of
county government * * *."

The fiscal year is from July first through June thirtieth
next following. It appears academic that funding of that
portion of the salaries of the County Auditor and Treasurer
by the County is for purposes of County operations. The
County, however, in adopting that budget is subject to the
general law of this State. Section 4-9-30 provides in part
that:

REQUEST LETTER

October 3, 1985

"Under each of the alternate forms of government * * * each county government within the authority granted by the Constitution and subject to the general law of this state shall have the following enumerated powers * * *:

'(5) * * * make appropriations for functions and operations of the county * * *.' See also Roton v. Sparks, 270 S.C. 637, 244 S.E.2d 214, to the effect that such power is subject to the general law of this State.

It is thus seen that the authority of the County in its appropriations is subject to or limited by state law. In § 8 of Part 1 of the 1985-86 South Carolina Appropriations Bill it is provided that:

"Provided, Further, That for the Fiscal Year 1985-86, the State shall pay \$12,513 on the salary of each County Auditor and County Treasurer in addition to any amounts presently being provided by the county for these positions. Provided, Further, That it is the intent of the General Assembly that the amount appropriated by the county for these positions shall not be reduced as a result of the appropriation and that such appropriation shall not disqualify each County Auditor and each County Treasurer for salary increases that they might otherwise received from county funds in the future. Any reduction by any county in the salary of the County Auditor or County Treasurer shall result in a corresponding decrease of funds provided to that county by the State."
(Emphasis added)

This provision is a general law with application to each of the forty-six (46) counties and to the Auditors and Treasurers therein.

"A statute is ordinarily regarded as a general law, if it has a uniform operation. Within the meaning of this rule, a statute has a uniform operation, if it operates equally or alike upon all persons, entities, or subjects within

Honorable Johnny C. Allen
Page Three

October 3, 1985

the relations, conditions, and circumstances prescribed by the law, or affected by the conditions to be remedied. * * *. A law is a general one where it relates to persons, entities or things as a class, and omits no person, entity, or thing belonging to the class. * * *." 73 Am.Jur.2d, Statutes, § 5 p. 271. See also 18 Words and Phrases, General Law.

The General Assembly has thus provided for a fixed appropriation of state funds for the County Auditors and Treasurers. By express language, it has directed that the amounts appropriated by the County to these two officers are not to be diminished by the state's appropriations.

We are advised that the Comptroller General's Office was contacted to ascertain the amount of the increase in the state's appropriation. Upon being advised that the same was Six Hundred Ninety-eight (\$698.00) Dollars, the County's funding of those officers' salaries was decreased by that amount. The reduction is in conflict with the express legislative declaration and should thus be corrected.

CONCLUSION:

A County cannot decrease its funding to the salary of the County Auditor and County Treasurer by reason of the amount of state funding for those officers.

JLAJr:wcg