

1984 S.C. Op. Att'y. Gen. 53 (S.C.A.G.), 1984 S.C. Op. Att'y. Gen. No. 84-18, 1984 WL 159826

Office of the Attorney General

State of South Carolina

Opinion No. 84-18

February 15, 1984

*1 The Honorable M. Lois Eargle
Member
House of Representatives
Post Office Box 802
Conway, South Carolina 29526

Dear Representative Eargle:

You have inquired of this office whether or not Act Number 84 of the 1983 Acts and Joint Resolutions of the General Assembly of South Carolina permits the use of up to twenty-five percent of a county's apportionment of 'C' construction funds for patching potholes and paving existing county roads.

In order to utilize 'C' funds for rocking or improving county roads, a county must meet a threshold requirement. That requirement is that ten percent or more of the state maintained or local roads within the county must be unpaved. Under the terms of Act Number 84, the determination of the percentage of unpaved roads in a county must be determined from the December 31, 1982 official records of the South Carolina Department of Highways and Public Transportation.

Once a county meets the threshold eligibility requirements of having ten percent or more of its roads unpaved, 'C' construction funds may be utilized for rocking or improving certain roads within the county. In order for a road to be eligible for 'C' funded improvements under the statute, it must be maintained by the governing body of the county and a majority of the legislative delegation of the county in which the expenditure is to be made must approve the use of 'C' funds on the particular road.

Assuming all these requirements to be met, there remains the question whether or not patching potholes and paving county roads comes within the ambit of the phrase 'improving county roads' as it is utilized in Act Number 84 of 1983. Generally, in construing statutory enactments, courts attempt to give words utilized in the statute their plain and ordinary meaning. [Worthington v. Belcher](#), 274 S.C. 366, 264, S.E.2d 148 (1980). Another rule of statutory construction is that each word or phrase in a statute should be given effect, if possible, and not regarded as surplusage. [Bruner v. Smith](#), 188 S.C. 75, 198 S.E. 184 (1938). Also, statutes should be considered as a whole, rather than isolating particular sections or phrases. [City of Columbia v. Niagara Fire Insurance Company](#), 249 S.C. 388, 154 S.E.2d 674 (1967).

To fully answer your question, it is necessary to apply these principles of construction to ascertain the meaning of the phrase 'improving county roads' as it is used in the second paragraph of Act Number 84 of 1983. The words 'improvement' or 'improving' ordinarily connote betterment or bringing to a higher standard. See [Webster's Third New International Dictionary](#) (1976). The terms generally mean more than mere repairs or replacement of waste. [Black's Law Dictionary](#) (West Publishing Company, 1968); [In Re Board of Public Works of City of Watertown](#), 144 N.Y. 440, 39 N.E. 387 (1895). This construction of the word 'improving' is appropriate for the word as it is used in Act 84 of 1983. In the first paragraph of Act Number 84 the legislature generally authorizes 'C' funds to be 'expended on the State Highway Secondary System for construction, improvements, and maintenance.' (emphasis added) Clearly, the General Assembly intended that these words be used in their ordinary context. In giving each word meaning in accordance with settled rules of construction, it is clear that the word 'improvements' connotes modification to highways outside of maintenance or initial construction. Although construction and maintenance of State Highway Secondary Roads was apparently a proper utilization of 'C' funds in the view of the legislature,

the legislature was more restrictive in the second paragraph of Act Number 84, dealing with county roads. That paragraph does not authorize the expenditure of funds for either construction or maintenance of county roads.

*2 Therefore, it is the opinion of this office that pothole patching on county roads, an ordinary maintenance expenditure, is not a proper utilization of 'C' funds under Act Number 84 of 1983. Paving on county roads may be an authorized expenditure for 'C' funds. Whether or not it constitutes a proper expenditure will depend on whether the paving contemplated through the use of 'C' funds is an improvement of an existing road. For example, paving an existing county dirt road would likely be an improvement and a proper expenditure of 'C' funds.

Yours very truly,

M. Richbourg Roberson
Senior Assistant Attorney General

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