

1984 WL 249822 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 10, 1984

*1 R. Ferrell Cothran, Jr., Esquire
Cothran & Cothran
Post Office Drawer 700
Manning, South Carolina 29102

Dear Mr. Cothran:

You have requested the advice of this Office as to a matter concerning insurance proceeds from a fire loss to a school building in Clarendon County School District 2 (District 2). You do not contest that this money is owned by Clarendon County School District 2; however, you want to know whether the budgeting of this money must be approved by County Council before it can be spent by School District 2.

Under Act 311, Acts and Joint Resolutions of South Carolina, 1977, the governing body of Clarendon County is given the authority for the limiting and levying of school taxes in Clarendon County. Under this law, each board of trustees in the County is required to submit its annual budget to the governing body when the budget is furnished to the County Board of Education.¹ According to the information provided to this Office, the Clarendon County Council had already approved the budget for District 2 before this loss occurred and the insurance proceeds became available.

The general question of budgetary approval for the use of surplus school funds by a county council was addressed by a previous opinion of this Office, a copy of which is enclosed. 1978 Op. Atty. Gen. No. 78-52. In that opinion, Richland County Council had in place an ordinance under which all surplus or unappropriated funds for the previous fiscal year were placed in an escrow account and were subsequently applied to the county agency budget requests for the subsequent fiscal year. Apparently, Clarendon County does not have such an ordinance in place now.

While not entirely on point factually with your situation in Clarendon County, this opinion appears to provide a useful guideline. Of course, special facts surrounding a matter such as that in Clarendon County conceivably could affect the course of action that should be taken there. Investigating all the facts surrounding a matter such as that is not within the province of this Office in issuing opinions. See Ops. Atty. Gen. (November 2, 1983 and December 12, 1983). Nevertheless, we hope that this enclosed opinion will be of assistance to you.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

Footnotes

¹ We express no opinion as to what role, if any, the County Board of Education should have in the budgeting of this money.

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