

1984 WL 249852 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 6, 1984

*1 The Honorable Herbert C. Granger
Member
House of Representatives
316 Westcliffe Way
Greenville, S.C. 29611

Dear Representative Granger:

You have asked this Office to review a portion of Joint Resolution No. 238, 1983 Acts and Joint Resolutions, and advise you whether a portion of the one-half mill levy remaining after payment of the audit costs may be used to put in place the recommendations of the 'Big Eight' accounting firm under its direction and with its help. For the reasons stated below, such an expenditure most probably is not deemed to be authorized by the Joint Resolution.

Joint Resolution No. 238 authorized, inter alia, a one-half mill levy to be used for a fiscal and management audit of the School District of Greenville County, to be conducted by a nationally recognized 'Big Eight' accounting firm. The Resolution also states, 'Any funds derived from the one-half mill levy not necessary to pay for the cost of this fiscal and management audit shall be applied toward a reduction in the bonded indebtedness of the district.' (Emphasis added.) Our task is to determine the meaning which the General Assembly intended to give this provision.

Where a term in a statute is unambiguous, it is to be given its plain and ordinary meaning. [Worthington vs. Belcher](#), 274 S.C. 366, 264 S.E.2d 148 (1980). The term 'any' means 'all.' [Watson vs. Watson](#), 230 S.C. 247, 251, 95 S.E.2d 266, 268. The term 'shall' is construed as requiring mandatory compliance. [South Carolina Wildlife Federation vs. Alexander](#), 457 F.Supp. 118 (D.S.C. 1978); 2A [Sutherland Statutory Construction](#) § 57.03. Clearly, the resolution mandated that all funds derived from the one-half mill levy not used to pay for the cost of the audit must be applied to reduce the bonded indebtedness of the district.

If there is any way that implementing the recommendations of the auditing firm could be considered a cost of the audit, then such costs could be appropriately included as a portion of the cost of the audit.¹ We do not know all of the facts surrounding the audit, and we have not seen the contract between the auditing firm and the school district; thus, we acknowledge, that there are additional factors to be considered. Please be advised, however, that expenditures for implementing recommendations of the audit would have to be clearly authorized; merely claiming that audit costs include the cost of implementing recommendations could not be used to divert public funds. See [Grimball vs. Beattie](#), 174 S.C. 422, 177 S.E. 668 (1934), concerning expenditure of public funds without a valid appropriation therefor.

We trust that this information satisfactorily resolves your question. If we provide additional assistance, please advise us.

Sincerely,

Patricia D. Petway
Staff Attorney

Footnotes

¹ An audit is '[a]n official examination of an account or claim, comparing vouchers, charges, and fixing the balance.' [State vs. Louchheim](#), 296 N.C. 314, 250 S.E.2d 630, 638 (1979). It is also described as 'the process whereby the Independent Certified Public

Accountant conducts an examination of management's financial statements to determine whether the statements present fairly the financial information which they purport to convey.' [Securities and Exchange Commission vs. Arthur Young & Company, 590 F.2d 785, 788 \(9th Cir. 1979\)](#). Generally, the implementation of recommendations following an audit appear to fall outside the auditing process.

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