

1982 WL 189184 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 23, 1982

***1 Re: Reduction in Funding in the State-Aid Cancer Fund**

William C. Wilson, M.D.
Associate Professor, OB/GYN
Medical University of South Carolina
171 Ashley Avenue
Charleston, South Carolina 29425

Dear Dr. Wilson:

You have recently asked this office for its opinion as to the legality of any reduction of funds which were allotted to the South Carolina Department of Health and Environmental Control cancer program in the 1981 Acts and Joint Resolutions, No. 178, hereafter the Appropriations Act. For the following reasons it is the opinion of this office that such action is legal because the reduction of funds was implemented as part of a budget reduction plan rather than by an intra-agency transfer of funds.

To explain the aforementioned legal conclusion, one must examine several provisions of the Appropriations Act, that is, Sections 1A, 37, 139 and 140 with two basic rules of statutory construction in mind. The law of this state has long provided that a basic rule of statutory construction is that every part of a statute must be given full effect and 'a statute must receive such construction as will make all of its parts harmonize with each other and render them consistent with its scope and object . . . [Crescent Manufacturing Co. v. Tax Commission](#), ___ SC ___, 124 S.E. 761, 765 (1924). Accord, [Hartford Accident and Indemnity Co. v. Lindsay](#), ___ SC ___, 254 S.E.2d 301, 304 (1979) ('Full effect must be given to each section of a statute, giving words their plain meaning, and, in the absence of ambiguity, words must not be added or taken away.') Another basic rule of statutory construction is that 'where the terms are clear and not ambiguous, there is no room for construction, and courts must apply them according to their literal meaning.' [Jones v. South Carolina State Highway Department](#), ___ SC ___, 146 S.E.2d 166, 168 (1966).

As a general proposition, state agencies are required to spend funds in accordance with the line items listed in the Appropriations Act. 1981 Acts and Joint Resolutions, No. 178, Section 1A, p. 939. State agencies may transfer appropriated funds to other programs within the agency if the State Budget and Control Board unanimously approves such transfer. 1981 Acts and Joint Resolutions, No. 178, Section 140, p. 1611. Section 37 of the Appropriations Act contains the allocation of funds to the South Carolina Department of Health and Environmental Control, hereafter the Department, and specifically earmarks one million five hundred forty-two thousand five hundred thirty-seven dollars (\$1,542,537) for 'Cancer.' This section contains a proviso which reads

That notwithstanding any other provision of this Act, the funds appropriated herein for 'Cancer' shall not be transferred to other programs within the agency. 1981 Acts and Joint Resolutions, No. 178, p. 1320. (Emphasis added).

This proviso exempts cancer funds from those funds which were allocated to the Department which are susceptible to being transferred within the agency if the State Budget and Control Board approves such action.

***2 The Appropriations Act also provides:**

Any appropriations made herein or by special act now or hereafter, are hereby declared to be maximum, conditional and proportionate, the purpose being to make them payable in full in the amount named herein, if necessary, but only in the event

the aggregate revenues available during the period for which the appropriation is made are sufficient to pay them in full. The State Budget and Control Board shall have full power and authority to survey the progress of the collection of revenue and the expenditure of funds by all departments and institutions, and is hereby authorized and directed to make such reductions of appropriations as may be necessary to prevent a deficit.

Provided, Further, that the expenditure of funds, heretofore or hereafter provided, by any State Agency . . . shall be subject to approval and regulations of the State Budget and Control Board. 1981 Acts and Joint Resolutions, No. 178, Section 139, pp. 1609-10.

Pursuant to the authority granted to the State Budget and Control Board in the foregoing provision, the Board required state agencies, including the Department to prepare a plan of reduction of 2.19% of their 1981-82 general fund appropriations. See enclosure A. In response to the Board's request, the Department prepared a budget reduction plan which was approved by the Board. See enclosure B.

In conclusion, the Section 37 proviso prohibits the intra-agency transfer of 'cancer' funds and such a transfer has not occurred within the Department. The State Budget and Control Board was empowered to require and to approve budget reduction plans and such plans are valid provided the Board has complied with the restrictions outlined in Section 139 of the Appropriations Act. Sincerely,

Frank K. Sloan
Deputy Attorney General

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