

1981 WL 158171 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 3, 1981

**\*1** Honorable David F. McInnis  
Chairman  
Joint Appropriations Legislative Review Committee  
Solomon Blatt Building  
Columbia, South Carolina

Dear Mr. McInnis:

You have requested the opinion of this Office as to the duties and powers of your Committee, and of the Budget and Control Board, and of the Joint Legislative Committee on Personal Service Financing and Budgeting, and the relationship between them when the General Assembly is both in session and out of session. Specifically, you have inquired as to the situation when the two Committees are not in agreement on a matter under consideration.

The Joint Appropriations Review Committee (Review Committee) was established as a permanent committee by Joint Resolution 651 of 1978, which had the full force and effect of law upon its approval by the Governor, July 23, 1978. See, [Smith v. Jennings](#), 67 S.C. 324, 45 S.E. 821 (1903), which has not been overruled or modified. The Joint Legislative Committee on Personal Service Financing and Budgeting (Personal Service Committee) was established by Part II (Permanent Provisions), Section 2, of the General Appropriations Act of 1980, Act No. 517, which has like force and effect. Therefore, the two Committees have equal legal standing, but their respective powers and duties are limited to those provided in the legislation which created them.

1. As to the procedure to be followed when the General Assembly is in session, Act No. 651 of 1978, as amended, provides that an agency wishing to expend funds . . . ‘over and beyond those appropriated out of the general fund’ . . . must submit its proposal to the State Budget and Control Board for its approval.  
. . . The Board shall then furnish the requests and its recommendations to the Joint Appropriations Review Committee, which shall furnish to the Board within fourteen days a statement of concurrence or nonconcurrence . . . (Section 4)

Since, when the General Assembly is in session, the Review Committee must concur with the Board's recommendation (or let the Board's decision stand by failure to respond in 14 days) before the proposal is approved, nonconcurrence results in denial of the agency's proposal.

2. As to the situation when the General Assembly is not in session, under Section 5 of Act No. 651 of 1978, as amended, the role of the Review Committee is only to give to the Board . . . ‘any advice or recommendations which it deems appropriate’ . . . on the agency proposals, which the Board must forward to the Review Committee before making its decision. Unlike the situation when the General Assembly is in session, concurrence of the Review Committee is not required. The approval authority is exclusively in the Board in such periods; but it must, of course consider the Review Committee's advice and recommendations in making such decisions. See, Opinion Atty. Gen., October 27, 1980, copy attached.

3. The duties and responsibilities of the Personal Service Committee do not include approval authority, but are limited to:  
**\*2** . . . study issues pertaining to the budgeting of personal service funds and positions, and to overview the implementation of recommendations . . . (Section 2A)

... monitor, oversee and evaluate actions ... reviewing the appropriation process and the position approval process ... make annual reports to the General Assembly ... (Section 2B)

... cooperate with the (Review) Committee in analyzing the (position control) system ... present recommendations to the Review Committee concerning modifications of budget format or content ... (Section 2D.1.)

... review and comment ... to the Budget and Control Board on agency requests to exceed the number of personnel positions authorized by the General Appropriations Act. (Section 2F)

These duties are, in sum, to study, evaluate and recommend actions concerning control of growth in State government. No power is vested in the Personal Service Committee to approve or disapprove actions.

It is, therefore, the opinion of this Office that: (1) When the General Assembly is in session, approval of requests by agencies and institutions to expend funds not previously appropriated must be concurred in by both the Budget and Control Board and the Joint Appropriations Review Committee. This would include the expenditure of funds for new personnel positions; (2) When the General Assembly is not in session, such requests require approval only by the Board, but the Review Committee may advise or recommend on such actions, (3) The Joint Legislative Committee on Personal Service Financing and Budgeting has no approval authority, but should review all proposed personal service increases, and make recommendations to the Board and to the Review

Committee as to the action to be taken, both when the General Assembly is in session and not in session.

Sincerely,

Frank K. Sloan  
Deputy Attorney General

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