

1981 S.C. Op. Att'y. Gen. 95 (S.C.A.G.), 1981 S.C. Op. Att'y. Gen. No. 81-76, 1981 WL 96602

Office of the Attorney General

State of South Carolina

Opinion No. 81-76

August 26, 1981

***1 SUBJECT: Disposal of Surplus Property; 1981–82 General Appropriations Act; South Carolina Consolidated Procurement Code.**

The SCDHPT has the authority to sell materials, supplies or equipment classified as obsolete, surplus or junk pursuant to the 1981–82 General Appropriations Act notwithstanding the South Carolina Consolidated Procurement Code. Proceeds from such sales are to be credited to the Highway and Public Transportation Fund.

TO: Assistant Attorney General
Division of General Services

QUESTION:

Does the Department of Highways and Public Transportation have the authority to dispose of its own property and deposit proceeds to its credit, or does the Division of General Services have the authority to dispose of Department property and deposit the proceeds in the General Fund?

OPINION:

On July 8, 1981, Governor Richard W. Riley signed the South Carolina Consolidated Procurement Code. (R209, H2230) §§ 11–353810, 11–35–3820, 11–35–3830 and 11–35–4020 provide for the sale, lease or disposal of State surplus supplies and unserviceable materials and equipment by the Division of General Services, with the proceeds being deposited in the State general fund or to the account of the appropriate government body. On July 28, 1981, the 1981–82 General Appropriations Act (R232, H2461) went into effect authorizing the South Carolina Department of Highways and Public Transportation (hereinafter SCDHPT) to sell ‘materials, supplies or equipment classified as obsolete, surplus or junk’ with the proceeds to be credited to the SCDHPT fund. Statutes in pari materia, although in apparent conflict, are so far as reasonably possible, construed to be in harmony with each other. But if there is an irreconcilable conflict between the new provisions and the prior statutes relating to the same subject matter, the new provision will control as it is the later expression of the legislature. Sutherland, Statutory Construction § 51.02 (4th Ed.); [Garey v. City of Myrtle Beach, 209 S.E.2d 893 \(1974\)](#). It is the opinion of this office that the SCDHPT has the authority to sell materials, supplies or equipment classified as obsolete, surplus or junk pursuant to the 1981–82 General Appropriations Act notwithstanding the South Carolina Consolidated Procurement Code. Proceeds from such sales are to be credited to the SCDHPT fund.

Richard D. Bybee
Assistant Attorney General

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