

1982 WL 189354 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 2, 1982

***1 SUBJECT: Appropriations—And to Political Subdivisions**

The appropriation of the bank tax to municipalities cannot in part be diverted to counties.

Honorable Grady L. Patterson, Jr.

State Treasurer

QUESTION:

Can the appropriation for municipalities that is set forth in Item II of Section 121 of the 1982-1983 Appropriation Act, and designated 'Bank Tax' be in part distributed to the counties?

APPLICABLE LAW:

Section 121 of the 1982-1983 Appropriation Act

DISCUSSION:

The General Assembly provided an appropriation of the bank tax to counties in the amount of \$1,987,480. This is set forth in Item I of Section 121 of the Bill. It was specifically vetoed by the Governor. In Item II of the Section, the appropriation of the bank tax to municipalities in the amount of \$934,828 was not vetoed. The Governor, however, provided: 'It is my hope that the treasurer will balance this reduction between the cities and counties in the same proportion they receive this aid.'

Your inquiry is whether the sum appropriated to the municipalities can be balanced or distributed in part to the counties. [Article X, § 8 of the South Carolina Constitution](#) provides that:

'Money shall be drawn from the treasury of the State or the treasury of any of its political subdivisions only in pursuance of appropriations made by law.'

It is thus constitutionally required that an appropriation exist before funds can be paid from the treasury. [Article IV, § 21 of the Constitution](#) further requires that:

'Bills appropriating money out of the Treasury shall specify the objects and purposes for which the same are made, and appropriate to them respectively their several amounts in distinct items and sections. * * *.'

A similar veto was considered by the court in [State ex rel. Long et al. v. Jones Comptroller General](#), 99 S.C. 89, 82 S.E. 882. There a gubernatorial veto of one item from a section was sustained by the General Assembly. The court there held:

'This language is too plain for doubt when his Excellency, the Governor, vetoed item 3 of section 30 of the Appropriation Act, and that veto was sustained, everything embraced in that item failed to become law, and the effort on the part of the petitioners to require the comptroller general to issue warrants on the state treasurer must fail, as he is without authority of law to so do, and the petition and application for the mandamus must be denied.'

Here, the appropriation of the bank tax to counties was stricken from the Act. The appropriation of the bank tax to the municipalities is specific. It cannot be diverted in whole or in part to the appropriation that was stricken by the veto.

CONCLUSION:

The appropriation of the bank tax to municipalities cannot in part be diverted to counties.

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