

1981 WL 158088 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 29, 1981

\*1 Honorable David F. McInnis  
Chairman  
Joint Appropriations Legislative Review Committee  
Suite 662, Dennis Building  
Columbia, South Carolina

Dear Mr. McInnis:

Your letter to the Attorney General of December 21, 1981, asks the opinion of this Office whether Clemson University may immediately terminate the State Meat and Poultry Inspection Program without approval of the Governor and the concurrence of your Committee pursuant to Act 651 of 1978, as amended.

It is the opinion of this Office that Clemson University is authorized, and indeed required by Section 130 of the 1981 Appropriations Act, to terminate this or other programs to accomplish necessary budget reductions to avoid deficits; but the funds appropriated for that Federally-funded program may not be reallocated to another program without approval of the Governor and the concurrence of the Joint Appropriations Review Committee (JARC).

Section 5 of Act 651, as amended, which deals with Federally-funded programs provides, in pertinent part:  
Section 6. During the year for which the funds are authorized, the Governor shall submit to the Committee his recommendations for:

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(2) Any changes or proposed changes in the funding of such programs, including, but not limited to changes in funding levels, consolidations, distribution and allocation;

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The Committee shall provide to the Governor, within a reasonable time, a statement of concurrence or non-concurrence with the recommendations.

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The information provided in the attachments to your letter indicates that Clemson would terminate the Meat and Poultry Inspection Program, which is 50% Federally-funded, and has requested approval to transfer the unexpended balance of state funds for that program, approximately \$200,000, appropriated in the 1981 Appropriations Act, Section 62, Item III, 'Livestock —Poultry Health' to Item V, 'Extension Service' which is also a partly Federally-funded program. It is not clear whether the transfer of the state funds from the inspection program to the Extension Service would also provide an increase in Federal

funding for the Extension Service; but the procedures required by the statutes are the same in any event. This is clearly a reallocation of funds in Federally-funded programs, requiring approval of the Governor and concurrence of JARC.

Section 140 of the 1981 Appropriations Act requires Budget and Control Board approval of the funds transfer, as President Bill Atchley has requested. Section 131 of that act also requires review by the JARC and approval by the Board of proposed expenditure for other purposes of state funds appropriated to match a specific Federally-funded program.

While the various statutory provisions require a cumbersome procedure, they can be harmonized to give effect to the apparent legislative intent, as required by the rules of statutory interpretation. In [Interest of Shaw](#), 274 S.C. 534, 265 S.E.2d 522 (1980); [Adams v. Clarendon County School Dist.](#), 270 S.C. 266, 241 S.E.2d 897 (1978). The result is that the proposed program change, funding reallocation, and transfer requires the approval of the Governor, JARC and the Budget and Control Board. The ultimate authority to approve the transfer resides in the Board, under Section 140 of the 1981 Appropriations Act; but prior review by JARC is required by Section 131, and prior approval by JARC is required by Act 651 of 1978, as amended; and the latter act requires first the approval or 'recommendation' of the Governor.

\*2 Therefore, the opinion of this Office is that the Clemson proposal to reallocate the funds must first receive approval or recommended approval by the Governor, followed by the concurrence of the Joint Appropriations Review Committee, and finally the approval of the State Budget and Control Board of the fund transfer.

Sincerely,

Frank K. Sloan  
Deputy Attorney General

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