

1980 WL 120576 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 3, 1980

*1 Mr. Charles Traynor Ferillo, Jr.
House of Representatives
State of South Carolina
The State House
Columbia, South Carolina 29211

Dear Mr. Ferillo:

Reference is made to your letter to Attorney General McLeod of December 12, 1979, requesting an interpretation of Subsection 3c, Section 3, current Appropriations Act, Act 199 of 1979, relative to the procedure for expending funds from the 'Approved Accounts' of Special Services for both Houses. The appropriation designated as 'Special Services for both Houses' also includes a specified expenditure classification for 'Personal Service' of several temporary employees, as well as for three permanent employees. In addition to the personal service items, the appropriation for Special Services for both Houses includes appropriation for 'Special Items,' to include 'Postage' and 'Approved Accounts.'

The question raised by your letter of December 12 is whether the President of the Senate and Speaker of the House jointly have the authority to expend funds from the approved accounts of Special Services for both Houses for contractual or consulting services. There is no limitation on approved accounts in the special service account or in the provisos found on pages 554, 555, 556, and 557, Act No. 199 of 1979. There is a provision for the State Auditor to annually audit the 'approved accounts of the Senate, the House, Special Services for both Houses, and the Legislative Council and make a report to the two bodies.' The statutory framework of the Appropriations Act reasonably contemplates that the President of the Senate and the Speaker of the House should jointly have the authority to expend funds from the 'approved accounts' of the account set up for Special Services for both Houses. The intent of the provisos for individual Houses would indicate that the approved accounts could be utilized for other services of a contractual or consulting nature, upon approval of the President of the Senate and Speaker of the House. We note, for example, that temporary clerical help for the Chairman of the Senate Finance, House Ways and Means, Senate and House Judiciary Committees, the President of the Senate, and Speaker of the House, may be paid from 'approved accounts' of the respective Houses and we also note that the Clerks of the two Houses and the Legislative Council are authorized to issue their warrants on 'approved accounts' for necessary extra clerical or other services upon approval of the Speaker of the House or Lieutenant Governor, respectively. See provisos, page 554, Act No. 199. The employment of extra clerical personnel and the expenditure for other services shall be reported to the House Ways and Means Committee and the Senate Finance Committee.

It is reasonable to consider other services to include contractual or consulting services, and hence, properly paid from approved accounts, whether said approved accounts be for an individual House or for both Houses under the Special Services Account. It is significant that, in the final analysis, the State Auditor is required to audit the approved accounts, under Special Services for both Houses, and we do not believe that the intent of the General Assembly was to limit the discretion of the President of the Senate and the Speaker of the House in utilizing the 'approved accounts' under Special Services for both Houses, particularly where there is no limitation in the provisos as to the use of said approved accounts. Hence, it is our opinion that the President of the Senate and the Speaker of the House jointly have the authority to expend funds from the approved accounts of Special Services for both Houses, for contractual or consulting services, as well as for other legitimate purposes.

*2 In order to avoid confusion, however, we would recommend that the 1980-81 Appropriations Act specifically provide for expenditure of approved accounts for both Houses by the joint authorization of the President of the Senate and the Speaker of the House.

Yours very truly,

Victor S. Evans
Deputy Attorney General

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