

1980 WL 120949 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

October 27, 1980

*1 Honorable Allen R. Carter
Chairman
Joint Appropriations Legislative Review Committee
305 Senate Gressette Building
Columbia, South Carolina 29202

Dear Senator Carter:

You have requested the opinion of this Office as to your Committee's authority to approve a request from the South Carolina Department of Agriculture that they be allowed to budget and expend \$343,568 of available 'other funds' received by the Department in addition to funds appropriated to them for fiscal year 1980-81.

You have referred to Act No. 651 of 1978, as amended by Act No. 199 of 1979, which provides that powers and duties of your Committee. The part of that Act pertinent to your question is Section 5:

Section 5. During periods the General Assembly is not in session, with the exception of appropriations from the general fund and those provided for in Sections 7, 8 and 9 of this resolution, no agency or institution of state government shall expend any funds without prior approval of the State Budget and Control Board. In determining its position with respect to any proposed receipt or expenditure, the Board shall consider among other things the public benefit to be derived from the program or service, and the impact of the proposal on the future finances of state government.

Proposals shall originate with the agency or institution identified with the funds which shall submit them to the Board for its approval. Prior to making its decision, the Board shall furnish the request to the Joing Appropriations Review Committee, which shall furnish to the Board within fourteen days any advice or recommendations which it deems appropriate. The Board shall give consideration to the advice and recommendations when making its final determination as to whether to approve or disapprove the request. The Board shall use its discretion in the absence of advice or recommendations from the Committee.
* * * (Emphasis added.)

In our opinion the Act is clear and unambiguous, and the extent of the Committee's authority, during periods the General Assembly is not in session, is to furnish advice or recommendations to the State Budget and Control Board as to whether an agency or institution should receive or expend funds for which no specific appropriation has been made. The approval authority during such periods is exclusively in the Board; but it must, of course, give consideration to the Committee's advice and recommendations when making its determination.

In this case, it appears that Federal funds of \$33,909 have become available to the Department of Agriculture, and an additional \$343,568 of 'other funds' have become available through income producing activities of the Department. Whether the Board determines to approve their expenditure, or require that expenditure be delayed pending authorization by the General Assembly, will depend upon their conclusion as to 'the public benefit to be derived from the program or service, and the impact of proposal on the future finances of state government.' Your Committee's advice and recommendations should be of considerable importance in their consideration of the final decision.

*2 Please call upon is if you have any question concerning the matter.
Sincerely,

Frank K. Sloan
Deputy Attorney General

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