

1980 WL 120896 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 25, 1980

**\*1 RE: Accountability Act Reporting Requirements**

George L. Schroeder  
Director  
Legislative Audit Council  
500 Bankers Trust Tower  
Columbia, South Carolina 29201

Dear Mr. Schroeder:

You have requested an opinion from this Office regarding whether or not funds expended by athletic departments of institutions of higher learning in South Carolina are subject to being reported under the provisions of South Carolina Code § 1-1-910 of the Code of Laws of the State of South Carolina, Cum. Supp. 1979. It is the opinion of this Office that such funds are subject to the reporting requirements of § 1-1-910.

As we understand it, the confusion has arisen over § 126 of the 1979-80 Appropriations Act, the last sentence of which reads as follows:

Provided further, that notwithstanding any other provisions of this Act, funds at State institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations, and from the operations of canteens and bookstores, may be retained at the institution and used as determined by the respective governing boards. Such funds may be audited annually by the State but the provisions of this act concerning unclassified personnel compensation, travel, equipment purchases and other purchasing regulations, shall not apply to the use of these funds.

We are informed that one state institution of higher learning has taken the position that since their athletic department is exempt from purchasing regulations then the athletic department should also be exempt from the § 1-1-910 reporting requirements.

Section 1-1-910 originally was passed as Act 561 of 1976 and, as passed in that year, was entitled 'An Act to provide procedures for the collection of information for use by the General Assembly concerning expenditures of state appropriated funds, personnel data and related matters from state agencies, departments and institutions; and provide penalties for violations.' This Act was amended by Act 101 of 1977 which was entitled 'An Act to amend Act 561 of 1976, . . . , so as to include within the provisions of the Act the expenditure of federal funds and funds from other sources; . . . ' (Emphasis added). It is clear from the amendment to the original Act (which act is popularly known as the Accountability Act) that the legislature intended for the reporting requirements of the Accountability Act to apply to all monies expended by a State agency or institution and not just state appropriated funds. It is the opinion of this Office that there is nothing in the 1979-80 Appropriations Act which would in any way permit any state agency, department or institution not to report all of its expenditures as required by § 1-1-910. The substantive amendment embodied in Act 101 in 1977 states, 'Further it is the intent of the General Assembly that all funds including state, federal and other agency revenues, and also including any financial transactions covered by the budget code of the Comptroller General's Office, be included in the reporting requirements of this Act.' (Emphasis added).

\*2 Section 126 of the 1979-80 Appropriations Act, as quoted above, does exempt certain monies from the requirements found in the Appropriations Act concerning competitive bidding, travel allotments, etc., but there are no words in the Appropriations Act which indicate any effort on the part of the legislature to exempt those monies from the requirements of acts other than

the Appropriations Act. Section 126 speaks only in terms of ' . . . this Act,' and is silent concerning any other statutes' or Acts' requirements.

In conclusion, it is the opinion of this Office that all expenditures, regardless of the source of the funds expended, by a state agency, department, or institution are subject to the reporting requirements of § 1-1-910 of the 1976 Code of Laws for South Carolina, Cum. Supp. 1979.

Sincerely Yours,

William P. Simpson  
Assistant Attorney General

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