

1980 WL 120857 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

September 4, 1980

*1 Mr. Philip E. Wright
Lancaster County Attorney
Post Office Box 150
Lancaster, South Carolina 29720

Dear Mr. Wright:

You have requested an opinion of this office concerning an issue arising under the Education Finance Act (Finance Act), § 59-20-10, et seq., Code of Laws of South Carolina (1976), as amended. The Finance Act requires the school districts to increase annually their funding of the 'defined minimum program' for meeting the educational needs of the students in this state (§ 59-20-40): however, no district is required to increase local revenue ' . . . if combined state and local revenue exceeds the amount necessary to meet the base student cost of the minimum foundation program at full implementation.' § 59-20-40(6). Your question is whether a district that has exceeded the full funding level for its schools may reduce its funding when the reduction will not bring the district below the full funding level. Full funding is described in § 59-20-40(3)(b) of the Code. Also, formulas for required state and local funding are mandated by the current Appropriations Act, Act 517, Acts and Joint Resolutions of South Carolina, 1980, p. 1802.

The resolution of this issue is dependent upon a construction of all relevant portions of the Finance Act with each other and with previous various of the law. See Sutherland Statutory Construction, Vol. 1A §§ 22.30 and 22.34 and Vol. 2A § 46.05. The original Finance Act contained a provision which prohibited districts from reducing their local effort below that of the fiscal year prior to the implementation of the Act (Act 163 § 5(2), Acts and Joint Resolutions of South Carolina, 1977); however, this provision was deleted in 1978 and it has not been replaced by a similar provision. Act 644, Part II § 28, of 1978.¹

This deletion, the prohibition on requiring increased local funding above the full funding level, and the current absence of any express or clearly implied restrictions on reductions to levels which equal or exceed full funding indicate that the legislature did not intend to restrict such reductions. Thus, neither the Finance Act nor any other provision of the general law appears to prevent a school district from reducing the total amount of its local funding, provided that it does not fall below the full funding level in the Finance Act and below Department of Education formulas mandated by the Appropriations Act. No opinion is expressed herein as to whether such a district may reduce particular items within its total budget. See note 1, supra.

If I can be of further assistance, please let me know.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

Footnotes

¹ Note that restrictions remain on the reduction of teachers' salaries. See § 59-20-50.

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