

1977 WL 190815 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 26, 1977

*1 Brigadier General James W. Henderson
Deputy Adjutant General
Office of the Adjutant General
National Guard Armory
1225 Bluff Road
Columbia, SC 29201

Dear General Henderson:

In your letter of January 25, 1977, you requested an opinion as to whether the Military Department may make payments for support of the ARNG Service Contracts which exceeds the cash balance available in the specific fund.

As you are aware, the General Assembly of South Carolina appropriates funds each fiscal year to meet the States twenty-five (25%) percent share of the ARNG Service Contract. In regard to payment from this appropriation, Section 1-702 of the Code of Laws of South Carolina (1962) provides inter alia, that:

It shall be unlawful for any officer, clerk or other person charges with disbursements of State funds appropriated by the General Assembly to exceed the amounts and purposes stated in such appropriations, or to change or shift appropriations from one items to another; provided, that transfer may be authorized by the General Assembly in the act for the State.

The General Assembly has not authorized the Adjutant General to transfer or shift any of its appropriations. Therefore, the State Comptroller could not draw warrants for payment on a Service Contract Fund which exceeded the cash balance available in that fund at the time of the warrant.

H Kale, Jr
Assistant Attorney General

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