

1977 S.C. Op. Atty. Gen. 162 (S.C.A.G.), 1977 S.C. Op. Atty. Gen. No. 77-210, 1977 WL 24552

Office of the Attorney General

State of South Carolina

Opinion No. 77-210

July 6, 1977

*1 TO: Mr. George L. Schroeder
Executive Director
Legislative Audit Council
State of South Carolina

QUESTION

May the General Appropriations Act be used as a guide for defining which State agencies must comply with the Fiscal Accountability Act?

STATUTES, CASES AND TREATISES

§ 2–15–50, Code of Laws of South Carolina (1976);

Act No. 561 of 1976, 59 Stat. 1553 (Fiscal Accountability Act), as amended by Act 101 of 1977;

[Powers v. Fidelity & Deposit Co. of Maryland](#), 180 S. C. 501, 186 S. E. 523 (1936);

Vol. 2A Sutherland Statutory Construction (4th Ed.), § 46.01, ‘Plain Meaning Rule’;

Vol. 2A Sutherland Statutory Construction (4th Ed.), § 51.03, ‘Statutes Deemed to be in Pari Materia’.

DISCUSSION

You have requested an opinion concerning the validity of using the General Appropriations Act as a guide for defining which State agencies must comply with Act No. 561 of 1976, 59 Stat. 1553 (Fiscal Accountability Act), as amended by Act No. 101 of 1977. In defining ‘agencies’ for the purpose of this Act, Section 2(1) of Act No. 561 provides:

‘Agencies, departments and institutions of State government means all such agencies, departments and institutions funded in whole or in part by funds appropriated by the General Assembly excluding those included within the legislative department of government and the office of Governor; provided, however, that the term shall include the Governor’s Office of Administration.’ (Emphasis added).

It is the opinion of this Office, in keeping with the intent of the Legislature in enacting the Fiscal Accountability Act, that the phrase ‘all such agencies, departments and institutions’ should be read broadly, subject only to the exemptions that are specifically set forth in the Act.

The language and meaning of Act 561, Section 2(1), is clear and unambiguous. The Legislature is presumed to have fully understood the import of words used in a statute and intended to use them in their ordinary and common meaning unless vague

or indefinite. [Powers v. Fidelity & Deposit Co. of Maryland](#), 180 S. C. 501, 186 S. E. 523 (1936). Vol. 2A [Sutherland Statutory Construction](#) (4th Ed.), § 46.01, 'Plain Meaning Rule'.

The proposed definition of the Legislative Audit Council as submitted fails to conform with Act No. 561, Section 2(1), in that it does not include the Governor's Office of Administration as one of the reporting agencies. The Legislative Audit Council should refrain from an attempt to further define agencies, departments and institutions which are required to comply with the Fiscal Accountability Act. However, for the purpose of clarification, Section 2(1) of Act No. 561 may be considered in 'pari materia' with § 2–15–50, Code of Laws of South Carolina (1976). 'Statutes are considered to be in pari materia—to pertain to the same subject matter—when they relate to the same person or thing . . . or have the same purpose or object.' Vol. 2A [Sutherland Statutory Construction](#) (4th Ed.), § 51.03, 'Statutes deemed to be in Pari Materia'.

*2 The Fiscal Accountability Act and § 2–15–50, Code of Laws of South Carolina (1976) have the same object or purpose. The Legislative Audit Council was created and the Fiscal Accountability Act was enacted to provide for legislative oversight of the financial transactions and fiscal matters of State agencies, departments and institutions. Section 2–15–50, in defining 'State agencies' for the purpose of the Legislative Audit Council, provides:

‘— ‘State agencies’ means all officers, departments, boards, commissions, institutions, universities, colleges, bodies politic and corporate of the State and all other persons or any other administrative unit of State government or corporate outgrowth thereof, expending or encumbering State funds by virtue of an appropriation from the General Assembly, or handling money on behalf of the State, or holding any trust funds from any source derived, but shall not mean or include counties.’

CONCLUSION

In defining which State agencies, departments and institutions must comply with the Fiscal Accountability Act, § 2–15–50, Code of Laws of South Carolina (1976) may be considered in 'pari materia' with Act No. 561 of 1976, 59 Stat. 1953, subject only to the exemption of those agencies, departments and institutions made up wholly of members of the General Assembly and therefore within the legislative department and those agencies, departments and institutions within the Office of the Governor, but not excluding the Governor's Office of Administration.

Further, in the opinion of this Office, any agency, such as a board or commission composed of members of the Legislature and members at large appointed by the Governor and funded by State appropriation, would be required to comply with the provisions of Act No. 561. However, any commission or committee composed exclusively of members of the Legislature would be excluded from the Act's provisions.

The General Appropriations Act may be used as a guide in listing agencies, departments and institutions required to report so long as any agency required to report but not listed in the General Appropriations Act would not perchance be excluded by an attempted definition which would be confined to only agencies, departments or institutions listed or mentioned in the General Appropriations Act.

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